

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, December 2, 2003

Tuesday, 9:05 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp; present.

Chris Cherches, City Manager; Gary Rebenstorf, Director of Law; Karen Schofield, City Clerk; present.

Josh Chittum, Plymouth Congregational Church, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the regular meeting of November 18, 2003, were approved 7 to 0.

The Minutes of the November 25, 2003, meeting were approved 7 to 0.

AWARDS AND PRESENTATIONS

Proclamations There were no awards or presentations.

PUBLIC AGENDA

Chris Carlson Mr. Carlson was not present.

Jon Rok Thyng Jon Rok Thyng-Vietnamese Committee to present their Community Flag recognition resolution.

Tom Long Winn requested a resolution to be adopted to recognize the Vietnamese Heritage flag. Mr. Winn read the resolution aloud. Stated that the Vietnamese community would like the flag to be part of the Wichita Community and be recognized by the City of Wichita. Mr. Winn also had signed petitions in favor of the resolution.

UNFINISHED BUSINESS**HISTORIC PRES.
BOARD**

APPEAL OF HISTORIC PRESERVATION BOARD ACTION REGARDING CONVERSION OF FIRST FLOOR COMMERCIAL SPACE TO PARKING GARAGE 221-223 EAST DOUGLAS (DISTRICT D) HPC 2003-00141, AND CONSIDERATION OF ISSUES RELATED TO CONVERSION OF FIRST FLOOR COMMERCIAL SPACE TO PARKING GARAGES IN THE DOWNTOWN EAST DOUGLAS AREA. (DEFERRED FROM 11-18-03)

John Schlegel Planning Director reviewed the item.

Agenda Report No. 03-1248

Central Inspection (OCI) has received plans and a building permit application from Mr. Steve Anthimedes for a project at 221/223 E. Douglas. The project - as proposed - is to convert the lower level space (of an existing two-story building) into a parking garage. The plan review letter from OCI required not only a number of plan revisions relating to building, trade and fire codes, but also required compliance with all City Historic Preservation and traffic engineering/safety requirements. The permit

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applicant has since followed up on the historic preservation and traffic engineering/safety issues with appropriate staff and through appropriate procedures.

The Historic Preservation Board (HPB) was requested to consider the redesign of the commercial storefront at 221-23 E. Douglas to allow for a first floor parking garage. The item was originally placed on the HPB's August 11, 2003, agenda at the request of the applicant. The applicant did not supply the documentation requested and did not appear at the meeting. The applicant did appear at the September 8 meeting and requested to be added as an off-agenda item. The board did vote to add the item to the agenda and reviewed the documentation presented by the applicant at the meeting. The board determined that there was not enough information presented to make a decision and voted (4-0) to send the applicant to the HPB's design review committee for final consideration. The applicant met with the design review committee on September 19, 2003.

The design review committee denied the application (4-0) as an inappropriate use of a first floor commercial structure within an historic commercial area. The decision was made according to K.S.A. 75-2715 – 75-2725, Standard and Guidelines for Environs Review, Standard #2, which states:

“The environs of a property should be used as it has been historically or allow the inclusion of new uses that requires minimal change to the environs’ distinctive materials, features, and spatial relationships.”

In summary, the HPB decided that the proposed use of this building for a ground level parking garage is an inappropriate use for the historic environs of this area.

The City Council has review authority over the decisions of the HPB, as provided for in K.S.A. 75-2724 and City Code Sections 2.12.1023 (c) and (f). However, in order for the City Council to overturn the decision of the HPB, all relevant factors must be considered, and the Council must find that there is no “feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use.”

During staff's overall evaluation of the proposed project, several policy matters, in addition to the HPB Historic Environs review, have arisen. These other policy matters were presented in several previous informational memorandums to the City Council from the City Manager, and during the October 28, 2003 City Council Workshop. The policy issues that have been presented include the following:

Since the HPB has determined that the conversion of an existing storefront along this section of East Douglas for a parking garages and driveway is inappropriate to the historic environs of the downtown East Douglas Avenue area (nearly all of which is within designated historic environs areas), it is logical to assume that this may be the HPB decision on future, similar requests, and that future similar appeals will be presented to the City Council. Basically, the HPB has interpreted that the state preservation law contraindicates the use of first floor commercial space for parking garages. Therefore, approval of this particular storefront conversion to a parking garage and driveway may establish City Council precedent on this matter.

The addition of new driveway accesses entering into buildings or onto lots along this section of East Douglas (particularly between Water and Topeka Streets), where there have historically been few, does present traffic safety and circulation concerns. These items need to be considered, especially in cases like this where the new driveway is so close to an intersection and where potential turning movements into the driveway may cause traffic flow and/or accident problems, or pedestrian safety issues. These concerns relate to both driveway access onto/from Douglas as well as onto/from the alleys behind these buildings. In the case of 221/223 E. Douglas, the existing, narrow one-way alley will have to be re-signed to prohibit not only parking as it does today, but also loading and delivery.

In many situations, the addition of a new driveway approach into a building (or lot) in this section of Douglas will require the removal of 2-3 existing or potential on-street parking spaces that are now being used and shared by all businesses in the general area. The City Council may need to consider development of a policy or guidelines relating to removal of existing on-street spaces for new driveways and private garages/parking lots.

In many (if not most) cases, new driveway approaches along this section of East Douglas will require significant removal and/or reconstruction of publicly-owned streetscape improvements, such as landscaping (trees, tree grates and/or planters, landscape irrigation), decorative light posts, sidewalks,

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existing curb and gutter, and underground utilities. It is recommended that when such driveways are allowed, the full cost of such streetscape reconstruction (or of any related alley enhancements) be paid by the property/building owner requesting the new driveway.

With regard to the specific parking garage proposal for 221/223 East Douglas, an analysis has been performed by Public Works with respect to Douglas Parking and Alley Loading Zone Issues, Streetscape and Driveway Design Issues, and Traffic and Pedestrian Impacts. This analysis includes a concept plan for the driveway design and streetscape reconstruction and a diagram of the left-turn movements from westbound Douglas traffic into the new driveway (this drive would be only 54 feet from the Broadway intersection).

The HPB has a programmatic agreement with the State Historic Preservation Office to review applications for all properties individually listed or listed in historic districts in the state/national register of historic places. The City Council has review authority over the decision of the Historic Preservation Board, as provided for in K.S. A. 75-2724 and the City Code Section 2.12.1023(c), and (f). In order for the City Council to overturn the decision of the HPB, all relevant factors must be considered and it must find there is no "feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use."

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|----------------------|--|
| Mayor Mayans | Mayor Mayans inquired if anyone wished to be heard. |
| Steve Anthimedes | Mr. Anthimedes stated that he has been before the City Council four times and is requesting that he be given an access on Douglas Street because if he does not it will affect his business. Explained that the accessibility in the back of the building is not practical and very difficult because it is so narrow. Explained that the restaurant next door to his business had informed him that if the parking is not accessible from the front, he will have to close his business. Mr. Anthimedes stated that parking is one of the most important issues for the businesses to be able to survive downtown. |
| John Schlegel | John Schlegel explained that he was asked to work with Mr. Anthimedes regarding how much it would cost him to make the structural changes that he would need in order to have a 20 foot opening at the rear of the building so that he could have access both in and out from this parking area he is proposing to create from the alley only. Stated that he has not been able to get the cost estimate from him. |
| Unidentified person | Explained that as far as the cost estimate it would cost about \$10 to \$15 thousand dollars to restructure the back end of the building and provide support for the second floor. Stated that this is not a viable solution in terms of solving Mr. Anthimedes's problems regarding getting his customers to recognize that there is an access to the back of the building. Stated that Mr. Anthimedes needs to have a camera there to activate a buzzer to allow the customers to come in and out of the building so that he has some control over who uses that area. |
| Councilmember Brewer | Councilmember Brewer inquired as to why the Historical Board denied the request. |
| John Schlegel | John Schlegel explained that their finding was that what Mr. Anthimedes is proposing to do would be inappropriate for the historic environs of Douglas Street. They found that converting the storefront to a parking garage would not be in keeping with the historic nature of that street. |
| Councilmember Brewer | Councilmember Brewer inquired how many parking spaces will be lost if they come in from the front entry or will there be any impact. |
| John Schlegel | John Schlegel explained that OCI has estimated that with the proposal that Mr. Anthimedes is making there would be seven to nine spaces lost which includes two on the street. |
| Councilmember Gray | Councilmember Gray stated that the City may lose two parking spaces that could be utilized when the City of Wichita revitalizes the downtown area but if the Council does not take this opportunity now to help some businesses that are already down there and are willing to spend their own money to better accommodate their customers, then when is the Council going to take it upon themselves to revitalize the downtown area. Stated that we would be forcing the businesses in this area to leave because the Council does not want to be business friendly. Stated that the City is talking about spending 30 million |

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dollars on the WaterWalk project to help redevelop downtown and here is an individual who has an existing business downtown that is surviving and wanting to make a personal investment to better allow his own customers to utilize his store to help him remain competitive and stay downtown and the City Council is considering not allowing him to do this for preservation.

Motion--
--failed
Brewer moved to affirm the decision of the Historic Preservation Board and deny the request. Motion failed 3 to 4. (No-Gray, Lambke, Mayans, Schlapp.)

Motion--
Brewer moved to find that there is "no feasible and prudent alternative" and reverse the decision of the Historic Preservation Board with the condition that the storefront design must be approved by the Historic Preservation Board. The following additional actions should be taken: (a) all access management and traffic safety issues must be resolved with final designs approved by Public Works Traffic Engineering; (b) all costs associated with construction of any new driveways, including the relocation and/or reconstruction of public landscaping improvements, light poles, sidewalks and curbs, and underground utilities shall be borne by the property owner of 221/223 E. Douglas; and (c) for future similar projects, direct staff to develop a proposed policy relating to removal of existing on-street public parking for installation of private driveways in this downtown area. Motion carried 6 to 1. (No-Fearey).

CHANGE ORDER

CHANGE ORDER POLICY AND ORDINANCE REVISIONS. (DEFERRED FROM 11-18-2003 MEETING)

Steve Lackey
Public Works Director reviewed the item.

Agenda Report No. 03-1249

March 25, 2003 the City Council approved changes to the City Code and Administrative Regulations pertaining to purchasing policy limits. Charter Ordinance 196, also amended Section 1 of Charter Ordinance 151 pertaining to building public improvement projects. Change Orders are used to address unforeseen conditions and to incorporate amenities requested by developers and staff. Change Orders under \$10,000 may be authorized by the City Manager. Change Orders under \$5,000 may be authorized by the Purchasing Manager. Change Orders in excess of \$25,000 are not allowed to exceed 25% of the original bid. In practice, the City Council authorizes all Change Orders greater than \$10,000. Change Order work is initiated as soon as possible and Council action is requested to approve the financing of the Change Order within the project budget. Approximately 90% of the City's projects (particularly engineering projects) are unit priced which provide competitively priced basis for Change Orders. The City Council in workshop on October 28, 2003 reviewed the City's policy on processing Change Orders. The City Council requested revisions to limit change orders to 10% of the original contract amount for public building projects while retaining the 25% limit for engineering projects.

The ordinance change is provided as requested by the City Council to: 1) limit change orders to 10% of the original contract amount for public building projects while retaining the 25% limit for engineering projects, 2) allows flexibility for the City Council to permit exceptions to these limits, and 3) in instances of public exigency allows for change orders to be negotiated by the City Manager or designee and reported to the City Council.

Change Orders of \$10,000 or greater will continue to be by City Council approval.

Mayor Mayans
Mayor Mayans inquired if anyone wished to be heard and no one appeared.

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Motion--

-- carried

Mayans moved that limiting additional project work to 10% of the original contract amount for public building projects while retaining the 25% limit for engineering projects be approved; the Ordinance be placed on first reading and the necessary signatures be authorized. Motion carried 7 to 0.

CHARTER ORDINANCE

A Charter Ordinance amending Section 1 of Charter Ordinance No. 196 pertaining to the methods of building public improvement projects and repealing the original of Section 1 of Charter Ordinance 151 and Charter Ordinance No. 196, introduced and under the rules laid over.

NEW BUSINESS

IEE AEROSPACE

PUBLIC HEARING AND ISSUANCE OF INDUSTRIAL REVENUE BONDS-LEE AEROSPACE, INC. (DISTRICT II)

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report No 03-1250

On March 16, 1999, the City Council approved the issuance of Industrial Revenue Bonds in an amount of \$3.5 million and a five-plus-five year 100% tax exemption on bond-financed property to Lee Aerospace. Proceeds from the bond issue were used to acquire property and construct a new facility including 30,000 sq.ft. for manufacturing space and 8,000 sq.ft. for office space. On October 7, 2003, City Council approved a Letter of Intent for IRBs to construct a new facility in the amount not-to-exceed \$1,200,000. The company is now requesting the issuance of Industrial Revenue Bonds in an amount of \$1,200,000 at this time.

Lee Aerospace, Inc., located at 9323 E. 34th Street North in northeast Wichita, is a local corporation founded in 1989. Lee Aerospace is a leading manufacturer of windshields, flight deck and cabin windows and repairs acrylic aircraft windows, supplying Boeing, Raytheon, Cessna, and Learjet aircraft.

Lee Aerospace has the capabilities to design, develop, test, and manufactures aircraft windows and sheet metal sub-assemblies. Designs can be produced from concept to production in virtually any size configuration of single-ply or multi-ply flat, curved or compound contoured aircraft windows. Lee Aerospace brings a unique service to the aircraft industry that has been a vital part of the Wichita community for the past 14 years.

Lee Aerospace was acquired in 1999 by The Triumph Group, an aerospace conglomerate with headquarters in Wayne, Pennsylvania and over 30 affiliates nationwide. The association with The Triumph Group has provided Lee Aerospace with the opportunity to expand and diversify its product line and to expand its role as an out-sourcing supplier to the aviation industry.

Bond proceeds will be used to construct a new facility including 18,000 sq.ft. for manufacturing space on land already owned by an entity related to the company. Lee Aerospace will add an additional 20 new jobs over the next five years. Under the 1999 Bonds, the company agreed to add 50 jobs. They had added 30 new jobs by September 11, 2001 when the downturn in aviation intensified. They have since reduced their workforce by 25, to a current level of 55 employees.

An analysis of the uses of project funds is:

Land	\$1,000,000
Building and Improvements	167,740
Landscape	<u>32,260</u>
Total Cost of Project	\$1,200,000

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The firm of Hinkle Elkouri Law Firm, L.L.C. serves as bond counsel in the transaction. The Bonds will be privately placed with the company's principal bank. Lee Aerospace has complied with the Standard Letter of Intent Conditions. The company has re-engaged the services of Hutton Construction to serve as general contractor. Hutton was chosen in 1999 to construct the company's headquarters and plant, after having advertised in the Wichita Eagle that the work of general contractor was available. Because the current project is considered a continuation of the original master plan, the company did not advertise for a general contractor this time. They did, however, advertise for sub-contractors. Lee Aerospace, Inc. agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. City Council has approved a five-plus-five-year 100% ad valorem tax exemption on bond-financed property.

Bond documents have been prepared by Hinkle Elkouri Law Firm, L.L.C., bond counsel for the project. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

The City Council has approved the issuance of Industrial Revenue Bonds in an amount of \$3.5 million and a five-plus year 100% tax exemption on bond-financed property to Lee Aerospace. Proceeds from the bond issue were used to acquire property and construct a new facility including 30,000 sq.ft. for manufacturing space and 8,000 sq.ft. for office space. On October 7, 2003, City Council approved a Letter of Intent for IRB's to construct a new facility and is now requesting the issuance of Industrial Revenue Bonds in an amount of \$1,200,000.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--
--carried

Schlapp moved that the Bond documents for the issuance of Industrial Revenue Bonds be approved and the Ordinance be placed on first reading. Motion carried 7 to 0.

ORDINANCE

**BOMBARDIER-LEAR
LEARJET**

**PUBLIC HEARING AND ISSUANCE OF INDUSTRIAL REVENUE BONDS - BOMBARDIER
LEARJET. (DISTRICT V)**

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report No. 03-1251

On September 10, 1996, the City Council approved a five-year Letter of Intent for Industrial Revenue Bonds in an amount not-to-exceed \$86 million, issued to Bombardier Learjet to finance expansion and modernization of its aircraft manufacturing plant located at Mid-Continent Airport in west Wichita. Council also approved a ten-year 100% ad valorem property tax exemption on all bond-financed property. On November 20, 2001, the City Council extended the Letter of Intent for an additional three-years until December 31, 2004. Under authority of the 1996 Letter of Intent, the City Council has authorized issuance of Industrial Revenue Bonds to Bombardier Learjet a total of approximately \$79.5 million in IRBs between 1996 and 2002. The company is requesting City Council to issue industrial revenue bonds in the amount not-to-exceed \$1,110,000 to finance its capital investments for the year 2003.

Proceeds from the sale of the 2003 bond issue will be used for the purpose of purchasing, acquiring, constructing, and equipping improvements and additions to existing facilities. Bond proceeds continue to be used to finance the expansion and upgrading of facilities accommodating increased personnel and space required to develop and produce four of Bombardier's business jet aircraft: the Learjet 31A, the Learjet 60, the Learjet 45, and the new Continental Jet.

Bond proceeds are estimated to be used as follows:

Real Property Improvements	\$779,000
Machinery and Equipment	331,000

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Total Cost of Project \$1,110,000

The law firm of Hinkle Elkouri, L.L.C. serves as bond counsel in the transaction. Learjet Inc. will purchase the bonds, and as a result bonds will not be offered to the public. Bombardier Learjet has complied with the Standard Conditions contained in the City's IRB Policy.

Bombardier Learjet agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. The City Council has approved a 100% tax abatement of ad valorem property taxes on the expansion project.

Bond documents have been prepared by bond counsel for the project. The City Attorney's Office will review and approve the final form of bond documents prior to the issuance of any bonds.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--
--carried

Martz moved that the Bond documents for the issuance of Industrial Revenue Bonds be approved and the Ordinance be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance authorizing the City of Wichita, Kansas, to issue its Taxable Industrial Revenue Bonds in the original aggregate principal amount not to exceed \$1,110,000 for the purpose of providing funds to purchase, acquire, construct and equip improvements and additions to certain existing facilities located in the City of Wichita, Kansas; prescribing the form and authorizing execution of a Seventh Supplemental Trust Indenture by and between the City and BNY trust Company of Missouri, St. Louis, Missouri (successor Trustee to Intrust Bank, N.A., Wichita, Kansas (the "Trustee"), as Trustee with respect to the Bonds; prescribing the form and authorizing the execution of a Seventh Supplemental Lease by and between Learjet Inc. and the City; approving the form of a Guaranty Agreement; and authorizing the execution of a Bond Purchase Agreement by and between the City and Learjet Inc., as purchaser of the Bonds, introduced and under the rules laid over.

CESSNA

PUBLIC HEARING AND ISSUANCE OF INDUSTRIAL REVENUE BONDS - CESSNA AIRCRAFT COMPANY.

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report No. 03-1252

Since 1991, the City Council has approved Letters of Intent for Industrial Revenue Bonds totaling a not-to-exceed principal amount of \$1.1 billion to finance expansion and modernization of Cessna Aircraft Company facilities in Wichita. Along with the letters of intent, the Council approved a five-plus-five-year 100% ad valorem tax exemption for all Cessna property financed with bond proceeds. Since 1991, approximately \$788 million IRBs were issued to Cessna. The company is requesting the issuance of City of Wichita Industrial Revenue Bonds in an amount not-to-exceed \$55,300,000 million to finance its 2003 capital investments. In addition, Cessna requests a two-year extension of its 1999 Letter of Intent to continue to expand and upgrade its existing facilities.

Bond proceeds are being utilized to finance expansion and upgrading of facilities located at the Cessna Wichita Facilities, including technology and manufacturing equipment to accommodate increased personnel and space required to develop and manufacture the four business jet aircraft produced in Wichita. Specific 2003 improvements at the Cessna facilities, include renovations and upgrades to parts warehousing, aircraft completion, engineering, assembly and manufacturing facilities. Acquisition of manufacturing machinery and equipment is also being financed.

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The uses of the 2003 bond proceeds are as follows:

Buildings and Improvements	\$ 1,428,352
Equipment	11,224,614
Tooling	42,611,720
Costs of Issuance	35,314
Total	\$ 55,300,000

The taxable Bonds will be privately placed with Cessna's parent company. Cessna Aircraft Company has complied with the Standard Conditions contained in the City's IRB Policy.

Cessna Aircraft Company agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. City Council has approved a five-plus-five-year 100% ad valorem tax exemption on bond-financed property.

Bond documents have been prepared by Hinkle Elkouri Law Firm, L.L.C., bond counsel for the project. The City Attorney's Office will review and approve the final form of any bond documents prior to the issuance of any bonds.

In addition to authorizing the issuance of the Series 2003 Industrial Revenue Bonds, the bond ordinance also authorizes the release of property financed by Series VII, 1993 Bonds from the lien of the 1993 Bond Indenture and the conveyance of said property to Cessna upon receipt of certification by the Bond Trustee that no Series 1993 Bonds remain outstanding.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--

Lambke moved that the Bond documents for the issuance of Industrial Revenue Bonds be approved, the Ordinance be placed on first reading and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

ORDINANCE

An Ordinance authorizing the City of Wichita, Kansas, to issue its Taxable Industrial Revenue Bonds, Series XI, 2003 (Cessna Aircraft Company), in the original aggregate principal amount of not to exceed \$55,300,000 for the purpose of purchasing, acquiring constructing and installing an Industrial and Commercial Facility; authorizing execution of a thirteenth Supplemental Trust Indenture by and between the City and BNY Trust Company of Missouri, St. Louis, Missouri, as Trustee with respect to the Series XI, 2003 Bonds; authorizing the City to lease said project to Cessna Aircraft Company; authorizing the execution of a Thirteenth Supplemental Lease by and between the City and Cessna Aircraft Company; authorizing the execution of a Bond Purchase Agreement by and between the City and Cessna Aircraft Company, as purchaser of the Bonds; and authorizing execution of a Bill of Sale, Termination and Release of Second Supplemental Lease and Cancellation Discharge and release of Second Supplemental Trust Indenture, introduced and under the rules laid over.

RAND GRAPHICS

EXTENSION OF IRB TAX EXEMPTION - RAND GRAPHICS INC. (DISTRICT IV)

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report 03-1253

On March 17, 1998, City Council approved issuance of Industrial Revenue Bonds in the amount of \$3.4 million to Rand Graphics, Inc. In conjunction with the bond issue, City Council approved a 100% property tax abatement for a 5-year term on the project, plus a second 5 years subject to Council review. Bond proceeds were used to construct a building addition to Rand's facility at 2820 South Hoover Rd. and to purchase machinery and equipment. On December 31, 2003, the initial five-year period for tax

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exemption will expire. Rand Graphics, Inc. requests City Council extend the tax exemption to include the second five years on bond-financed real property.

Rand is a graphics arts and commercial print and screen products manufacturing company. Rand offers full creation and production and fulfillment services to its customers as well as complete finishing operations. Much of Rand's recent growth has come from its screen printing division. Among others items, Rand manufactures large and small banners and life size point of sale displays. Customers include Chevron, Hallmark, Inc., Chrysler Corporation, Apple Computer and RJR/Nabisco. Rand exports over 60% of its products outside the State of Kansas.

As a condition of the bond issue and tax exemption, Rand committed to: construct a new 60,000 sq.ft. building addition, an investment of \$1,210,000; purchase additional machinery equipment worth \$2,275,000; and, create 27 new jobs within five years of the bond issue. A measure of Rand's initial five-year project commitments and outcomes are as follows:

1998 Commitment	December 31, 2003	Status
Construct new manufacturing facility		Completed 60,000 SF facility
Create 27 new jobs in five years:		Created 38 new jobs

Staff conducted a site-monitoring visit on September 25, 2003. Rand Graphic has exceeded its projection of creating 27 new permanent jobs. Rand Graphics increased sales by more 7% since 1998, and diversified its customer base. Rand's products are ultimately exported all over the United States and at least 2% Internationally.

In 2002, Rand Graphic paid approximately \$82,075 in real and personal property taxes. The appraised value exempted property is currently \$6,169,320. Rand Graphic is current in payments of administrative service fees.

Section 7.5 of the lease provides the City Council reserves the right to terminate the exemption at the end of the first five-year period.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--

Gray moved that the tax exemption on Rand Graphics' IRB-financed real and personal property for a second five-year period subject to ongoing efforts to meet job creation efforts be extended. Motion 7 to 0.

--carried

FAILING TO YIELD

ORDINANCE AMENDING, SECTION 11.16.100 OF THE CODE OF THE CITY OF WICHITA REGARDING THE OFFENSE OF FAILING TO YIELD TO AN EMERGENCY VEHICLE.

Gary Rebenstorf

City Attorney reviewed the item.

Agenda Report 03-1254

The Kansas Legislature amended K.S.A. 8-1530, Duty of driver upon approach of an authorized emergency vehicle. Historically, this statute mandated that a driver move to the side of the roadway when an emergency vehicle approaches with the requisite lights and/or audible signals operating. In the year 2000, the state statute was amended to mandate that drivers yield, when safe to do so, for stationary emergency vehicles operating the required visual signals. This duty applies to roadways with at least two lanes of traffic proceeding in the same direction. The driver is required to move to a lane that is not adjacent to the stationary emergency vehicle. If there are less than two lanes of traffic proceeding in the same direction, or if it is unsafe to move to a lane that is not adjacent to the stationary emergency vehicle, with visual signals operating, then the driver must reduce speed, and proceed with caution. No. 11.16.100 of the Code of the City of Wichita, mandates that drivers yield to approaching emergency vehicles. This ordinance needs to be amended to create a duty to yield to stationary emergency vehicles. The traffic on multiple-lane roadways can be heavy and fast, depending upon the individual characteristics of the roadway. When an officer must respond to an emergency, or attempt to

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enforce traffic and/or criminal laws, on the side of a multiple-lane roadway, the physical location, as well as speed allowed, could have an impact on the safety of the officer or officers responding. This amendment would allow enforcement against those who fail to yield to a stationary emergency vehicle, with the requisite visual signals operating

The amendment would require drivers, traveling on roadways with two or more lanes of travel in the same direction, to move to a lane of traffic, not adjacent to a stationary emergency vehicle, when the emergency vehicle has visual signals operating. If it is not safe to move to a lane of traffic not adjacent to the stationary emergency, or if the roadway has less than one lane of traffic in the same direction, then the driver must slow and proceed with caution. This would assist in maintaining the safety of emergency officials when called to roadside emergencies or when performing enforcement duties

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--
--carried

Mayans moved that the ordinance be placed on first reading and the necessary signatures be authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance amending Section 11.16.100 of the Code of the City of Wichita, Kansas, pertaining to the duty of a driver upon approach of an authorized emergency vehicle, and repeal of the Original Section 11.16.100, introduced and under the rules laid over.

UNATTENDED VEH. ORDINANCE AMENDING, SECTION I 1.52.060 OF THE CODE OF THE CITY OF WICHITA, REGARDING THE OFFENSE OF ALLOWING; AN UNATTENDED MOTOR VEHICLE TO REMAIN OPERATIONAL, OR WITH THE ENGINE RUNNING.

Gary Rebenstorf

City Attorney reviewed the item.

Agenda Report No. 03-1255

The Kansas Legislature amended K.S.A. 8-1573, the state statute prohibiting a person from allowing an unattended motor vehicle to remain operational, or with the engine running. The amendment allows a person with a remote starter system to utilize that technology without being in violation of state statute.

The amendment would allow the provisions of City Ordinance to reflect the same prohibited conduct as found under the provisions of state statute.

The amendment has been prepared and approved as to form by the Law Department.

Councilmember Gray

Councilmember Gray inquired regarding striking the whole ordinance.

Gary Rebenstorf

Gary Rebenstorf explained that they could but that the state law would still be in effect and would still be enforceable by the Wichita Police Department but that the offense would have to be charged in District Court instead of the Municipal Court.

Councilmember Gray

Councilmember Gray stated that it is his opinion that this is not worthy of being a law and should not have this law on the books to be a deterrent from stealing cars because stealing cars is already against the law. Would encourage the City Council to consider removing this ordinance from the Wichita statutes even though the state law would still be in effect.

Gary Rebenstorf

Gary Rebenstorf explained that it is his understanding that this amendment was done because of the remote starters.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

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Motion--
-- carried

Gray moved that the Wichita City Council repeal the Ordinance it it's entirety from the City Code.
Motion carried 4 to 3. (No-Fearey, Brewer and Martz.)

ORDINANCE

An Ordinance amending Section 11.52.060 of the Code of the City of Wichita, Kansas, pertaining to the traffic offense of leaving a motor vehicle unattended with the engine running and repeal of the Original Section 11.52.060, introduced and under the rules laid over.

WATERWALK

AMENDMENTS TO WATERWALK DEVELOPMENT AGREEMENT. (DISTRICT I).

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report No. 03-1256

On September 10, 2002, the City Council approved the Development Agreement and Master Plan for the WaterWalk Redevelopment Project, located in the East Bank Redevelopment District in downtown Wichita. On March 25, 2003, the City Council approved a revision of the Site Plan in the Development Agreement, approving the vacation of Lewis Street within the project area and the construction of a new street connecting Waterman and Lewis streets. On September 16, 2003, the City Council approved a revised Master Plan that incorporates a major destination retail facility based on the use of STAR bond financing and other changes. Approval of the revised Master Plan was conditioned on subsequent approval by the City Council of necessary changes to the Development Agreement. Staff and WaterWalk LLC have negotiated amendments to the Development Agreement, which are presented to the City Council for approval at this time.

The revised Master Plan incorporates the national destination retail store and the approved changes to Lewis and Waterman streets. Also in the revised Master Plan, parking, retail, office and residential uses are integrated within two mixed-use structures, while a third building incorporates a parking structure with street-front and waterway-level retail space and a multi-level office building. The revised Master Plan has increased the project area to include the area on the West Bank adjacent to the Ice Sports Center and an area under the Kellogg "fly-over" to provide additional surface parking needed for the destination retail store.

Since the revised Master Plan was approved, WaterWalk LLC has made adjustments to the design of the waterway in order to reduce the City's financial contribution to the project. The proposed changes to the waterway involve dividing the waterway into three zones with different design characteristics: one zone near the Arkansas River, a central zone in which the waterway is built at grade level, and a third zone nearer to Main Street where the waterway is built one story below grade in order to keep the small amphitheater in the revised Master Plan. By raising the elevation of the waterway in the central zone, the need to build costly vehicular and pedestrian bridges has been eliminated. WaterWalk LLC estimates that the proposed changes to the waterway construction may reduce the City's cost by approximately \$2 million.

Development Agreement Amendments:

The Development Agreement incorporates the details of the Master Plan as the Development Plan, which is defined in the Agreement as consisting of the:

Scope of Development (Exhibit 1),
Project Site Plan (Exhibit 2),
Development Budget (Exhibit 4), and
Phasing Schedule (Exhibit 5).

These exhibits (above) have all been amended to reflect the revised Master Plan. The revised Master Plan also changed the boundaries of the project area, which requires changes to Legal Description of Real Estate within the Project (Exhibit 3).

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Since the Development Agreement was first approved, the developer entity changed its name from Riverwalk LLC to WaterWalk LLC. This change is reflected in amendment of the Developer Guarantee (Exhibit 8) and Developer Notice To Proceed (Exhibit 7). City staff and WaterWalk LLC agree that the detailed specifications for public improvements should not be included in the Development Agreement and therefore propose eliminating Exhibit 13. Exhibit 14 has been revised to combine the minimum annual residential and commercial real property taxes to be paid by the Developer into one page for simplicity.

In addition to the exhibits, amendments are proposed for several internal sections of the Development Agreement, as follows:

Section 2.2 is amended regarding the aggregate cost of the project parcels to be acquired.

Section 2.3 is amended to reflect that the public improvements are to be completed in one phase instead of two.

Section 3.2 is amended to provide sufficient time for the City to complete the public improvements in one phase instead of two.

Section 3.3 is amended to change the timing of the out year improvement to match the construction schedule.

Section 3.4 is deleted since there is now only a single phase for the Public Improvements.

Section 3.5 is amended to delete Exhibit 13 and change the reference to the Development Plan.

Section 5.1.2(e) is amended to clarify the Development Plan and Phasing Schedule is to be approved by the City representative and approval will not be unreasonably withheld.

Section 5.3 is amended to provide that the Construction Phase Closing occurs during the time period listed in the Project Phasing Schedule.

STAR BONDING: The use of STAR bonds to finance public improvements relating to the destination retail store adds a new element not contemplated by the original Development Agreement. These new improvements add approximately \$24 million to the costs to be paid by the City, with the sole source of funding identified as STAR bond proceeds. A new Section 3.8 is proposed to add approval of STAR bonds by the City and State in an amount sufficient to fund the STAR bond-funded improvements as set forth in the Development Budget.

The amount of STAR bond financing capacity will be determined by expert analysis of economic information to be made available by the destination retailer, and by identification of the underwriting requirements of the STAR bond issue. Staff is seeking approval by the City Council to engage the services of a professional financial consultant, Springsted Public Financial Advisors, to assist in the analysis and bond structuring needed for this task. Springsted is financial advisor to Wyandotte County and performed similar fiscal services for the Kansas Speedway and Village West STAR bond issues. Springsted is also the financial advisor to Sedgwick County, selected through a competitive selection process. Sedgwick County has offered to allow the City to use its financial advisor under the terms of its current contract for professional services.

With the exception of the additional STAR bond-funded improvements, the estimated aggregate cost of the public improvements to be funded by the City, as shown in the revised Development Budget has not changed. The original Exhibit 4 includes a footnote statement that the amounts pertaining to public improvements (exclusive of STAR bond-funded improvements) are subject to adjustment for inflation. Any future increases in City funding must be approved by the City Council.

The cost of using Springsted to structure the STAR bond issue is estimated not to exceed \$20,000 and will be paid from the WaterWalk funding previously approved by the City Council.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard.

Lloyd Oakley

Mr. Oakley who resides at 245 N. Arcadia stated that he has concerns with the WaterWalk Project. Stated that he has been informed that phase one of the WaterWalk Project involves high-end apartments and condos centered around the waterway. Stated that the City is promising more than 30 million dollars for the various aspects of the project and that a particular aspect is the parking garage at a cost of 8 million dollars in taxpayer money. Inquired if the parking garage will be for public parking or private parking for the condos and if one will have priority over the other. Mr. Oakley also inquired if the 14.1 million dollars for the Waterway will be for the initial phase or will later phases increase the cost. Mr. Oakley expressed concerns with taking away revenue from the retailers who are already located in the

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Old Town Area. Stated that the City of Wichita should have their own projects and not copy from some of the larger cities that surround us. Stated that the City is being redundant with this type of attraction. Mr. Oakley also requested that the City Council hold one council meeting a month during the evening hours so that more of the public can have input on the meetings.

Bill Witherwax

Mr. Witherwax stated that he resides at 1833 Griffith and that he would like to see a profit and loss statement on the other property that the City of Wichita has been involved in such as the Hyatt. Stated that the parking around the Bass Pro Shop in Springfield, Missouri, has more than two or three city blocks of parking for their store and this issue should be considered before money is spent on this project.

Carl Peterjohn

Carl Peterjohn, Executive Director for the Kansas Taxpayers Network, requested that his statement be included in the minutes. Stated that the 2002 Wichita City Council made a very serious mistake when it nearly approved the east bank project despite notable descents from Councilmembers Lambke and Martz as well as then Councilmember Gale. This project was fatally flawed since the developers of this project did not let everyone know that the City of Wichita was going to make a very large contribution in the form of land, money and possibly other special items for assisting this project. The cart was put before the horse on the scheme and the mistake must be corrected. Instead of preceding today with this project as amended the Council should void this newest proposal, the City should start over and decide in advance the city's contribution in land, money or anything else. Then the City should seek bids. He suspects that this Council will be pleasantly surprised by the response they will get once the details of the City's resources on the table are known to everyone in advance. The response will then be competitive. Naturally he believes the City's share should be substantially lower than the large and varying amounts he has seen reported in the press. The proposal today is fatally flawed. The proposal agreed to by the 2002 City Council and the developers was totally one sided. The risk in this development has been socialized while any profits have been privatized. In other words if this turkey does not fly, the taxpayers are on the hook. If money is made on this project then the developers enjoy it, heads developers win, tails taxpayers lose. Developers can subordinate the City's own property to generate the resources for the scheme, this is an incredible outrage. The City has been spending an obscene amount of money to acquire property for this proposal, if you doubt this please check out just one property, 523 S. Main when you leave here. The small plot and a building was a bar on the west side of Main Street and on county tax rolls for less than \$31,000.00. Early this year the City paid \$250,000 for it. Taxpayers need to know the total amount of money the City has and all the property that is contained within the boundaries of this project. He believes that Wichitans will be surprised at how much the City has spent in years past and has recently spent just for the land, let alone all the other proposed development subsidies. Then the City will turn around and give a 100 year lease on it for only a dollar to the usual downtown, old town developers. Gee, this reminds me of a certain money-loosing hotel that the City also owns near this project. Those who do not remember the past, are condemned to repeat it. He is still waiting for the economic development and high priced jobs that the downtown hotel was suppose to create. The City is going to provide for this project, he believes that the folks will have their homes and businesses mortgaged through city bond funding should have a say. If the City is mortgaging taxpayers in the form of bonds let's say 10 million dollars or more, let's have a City wide vote on this new financial obligation. After all, Article 2 of the Kansas Constitution's Bill of Rights says that "All political power is inherent in the people". If tax referendums are not an option by the City Council, your course of action is clear. Terminate the agreement and send this proposal back to the drawing boards for a total overhaul.

John Todd

Mr. Todd who resides at 1559 Payne, stated that he is a licensed real estate broker and feels that in the free market system private investors buy land with their own money and then they create improvements on their own property with the idea of making a profit from their enterprise. Stated that the problem with the WaterWalk development is that it is government driven and financed rather than driven by the free market with private investment and ultimately shifts the risk for the project from the private developer to the public taxpayer. Stated that most of the land for this project is owned by the taxpayers and that the proposal that he has reviewed requires that the taxpayer land be subordinated to new private investor financing. Stated that this puts the taxpayer owned land at risk and before this project is approved the public needs to know how much money they have invested in their land. Stated that the Star Bonds financing plan calls for shifting sales tax revenue this project would create, from the government treasury to pay off the bonds. Mr. Todd stated that he feels that the City of Wichita needs

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to get the taxpayers out of the real estate business by selling the WaterWalk land for cash to private investors.

Councilmember Brewer Councilmember Brewer stated that he feels that this project is one of the best things for the City of Wichita and it has been drawn out too long and feels that the Council needs to bring closure and get the project underway. Stated that for the same number of people who speak in opposition of the project, the Council hears three times that number who speak in favor of it and many do not live in Wichita and it is nationally known that the City of Wichita is working on this project.

Motion-- Brewer moved that the amendment to the Development Agreement be approved, the necessary signatures be authorized and the use of Springsted Public Financial Advisors under the terms of the Sedgwick County Financial advisory services contract be approved. Motion carried 5 to 2. (No-Lambke and Martz.)
-- carried

119TH ST. WEST 119TH STREET WEST IMPROVEMENT, 17TH TO 21ST STREET. (DISTRICT V)

Steve Lackey Director of Public Works reviewed the item.

Agenda Report No. 03-1257

The 2002-2011 Capital Improvement Program (CIP) includes a project to improve 119th Street West, between 17th and 21st. On September 8, 2003, District V Advisory Board sponsored a neighborhood hearing on the project. The Board voted 4-0 to support the project with the additional recommendation that the CIP include a project to expand 119th Street to 13th and construct sidewalks on both sides.

The proposed project consists of reconstructing 119th Street West to provide two through lanes with a landscaped median and left turn lanes at the intersecting side streets. A storm water sewer system will be installed. Construction is planned for 2004. The work will necessitate a two-month closure of 119th to through traffic. Local access will be provided to affected properties.

The estimated project cost is \$1,125,000, with \$250,000 paid by the City and \$875,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds (GO). The original project is included in the approved 2002-2011 CIP for 2005 (\$950,000 GO). The revised project is included in the proposed 2004-2013 CIP for 2004 (\$250,000 GO, \$875,000 Federal). A City/State agreement has been prepared to provide joint funding and administration of the project.

The Law Department has approved the authorizing Ordinance and City/State agreement as to legal form.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion-- Martz moved that the project be approved, the Ordinance be placed on first reading, and the signing of State/Federal agreements as required be authorized. Motion carried 7 to 0.
--carried

ORDINANCE

An Ordinance declaring 119th Street West, between 17th Street and 21st Street (472-83890) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

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ROCK RD IMPROV. ROCK ROAD IMPROVEMENT BETWEEN 21ST AND 29TH STREET. (DISTRICT II)

Steve Lackey

Director of Public Works reviewed the item.

Agenda Report No. 03-1258

Councilmember Brewer momentarily absent.

The Capital Improvement Program (CIP) includes an ongoing program to relieve traffic congestion in the Rock Road Corridor. One element of the program is improvements to Rock Road between 21st and 29th. The City Council approved the design concept on April 2, 2002.

Three different designs were presented to District II Advisory Board on August 20, 2001. These designs included 5, 6, and 7 lane alternatives. After hearing concerns from citizens attending the meeting, City Staff continued to meet with neighborhood groups to develop a design that would be more acceptable.

A five-lane design with deceleration lanes at each intersection was tentatively agreed upon by the Home Owner's Association. This five-lane design would incorporate traffic signals at 22nd and at Oxford as well as deceleration lanes to address traffic issues. Raised medians would be used as a safety feature. That original design concept included an opening through a cul-de-sac at Dublin Court to connect traffic from Greenbriar development to a traffic light that would be moved to Oxford. The medians would be landscaped similar to other medians throughout Wichita. This design concept was presented at the November 5, 2001 DAB meeting.

Staff continued working with affected residents after the November 5, 2001 meeting attempting to address localized issues. Suggestions were incorporated into a proposed design that will meet projected traffic demands and was approved by the District Advisory Board at the January 14, 2002 meeting.

The approved design concept does not include opening Dublin Court, but does relocate the Greenbriar signal at Oxford. The design also provides residents within Penstemon access to a signalized u-turn at 29th and Rock Road. Drivers wanting to go south from Greenbriar could either utilize the u-turn at 29th Street North, or have to use the acceleration lane that will be constructed on Rock Road adjacent to Greenbriar. The design provides for more green space behind the curb than the transportation plan concept of seven lanes. Landscaped medians are also incorporated into the design.

The approved design concept provides for a five-lane roadway with four through lanes and a center two-way left turn lane. Traffic signals will be installed at 22nd and at Oxford. Deceleration lanes will be built at intersecting side streets.

The estimated project cost is \$2,570,000, with \$950,000 paid by the City and \$1,620,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds (GO). The original project is included in the approved 2002-2011 CIP for 2004 (\$735,000 GO, \$1,700,000 Federal). The revised project is included in the proposed 2004-2013 CIP for 2004 (\$950,000 GO, \$1,620,000 Federal).

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--
--carried

Schlapp moved that the project be approved; the Ordinance be placed on first reading; and the necessary signatures be authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance declaring Rock Road, between 21st Street and 29th Street (472-83889) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

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MURDOCK BRIDGE **MURDOCK BRIDGE IMPROVEMENT AT THE LITTLE ARKANSAS RIVER.** **(DISTRICT VI)**

Steve Lackey

Director of Public Works reviewed the item.

Councilmember Schlapp momentarily absent.

Agenda Report No. 03-1259

The Capital Improvement Program (CIP) includes funds to improve the Murdock Bridge over the Little Arkansas River. District VI Advisory Board sponsored a September 8, 2003, neighborhood hearing on the project. The Board voted 11-0 to recommend approval. The Staff Screening & Selection Committee has selected Professional Engineering Consultants to prepare construction plans. An agreement for design services has been prepared.

The existing bridge is structurally deficient. The proposed improvement consists of removal and replacement of the roadway deck and support girders. The sidewalk will be refurbished. New lighting will be installed. Construction is planned for 2004 after the River Festival is completed.

The estimated project cost is \$1,050,000, with \$400,000 paid by the City and \$650,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds (GO). The original project is included in the approved 2002-2011 CIP for 2005 (\$500,000 GO). The revised project is included in the proposed 2004-2013 CIP for 2004 (\$400,000 GO, \$650,000 Federal). A City/State agreement has been prepared that provides for joint project funding and administration.

The Law Department has approved the authorizing Ordinance, City/State agreement, and design contract as to legal form.

It is recommended that the City Council approve the project, approve the City/State agreement, approve the design contract, place the Ordinance on First Reading, and authorize the signing of State/Federal agreements as required.

The Capital Improvement includes funds to improve the Murdock Bridge over the Little Arkansas River. The District VI Advisory Board sponsored a September 8, 2003 Neighborhood hearing on the project. The Staff Screening and Selection Committee has selected Professional Engineering Consultants to prepare construction plans. An agreement for design services has been prepared.

Mayor Mayans

Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion--
--carried

Fearey moved that the project, Agreement and design contract be approved; the Ordinance be placed on first reading and the necessary signatures be authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance declaring the Murdock Bridge over the Little Arkansas River (472-83895) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

SPEC. LIQUOR TAX **RENEWAL OF SPECIAL LIQUOR TAX FUND CONTRACTS.**

Cathy Holdeman

City Manager's Office reviewed the item.

Agenda Report No. 03-1260

In 2001 the City issued a competitive Request for Proposals (RFP) for funding alcohol and substance prevention and treatment programs, with funding to commence in January 2002. The RFP incorporated

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City Council's guidelines established for funding such programs and the Special Liquor Tax Coalition reviewed the proposals received and made funding recommendations to the City Council. The Council ultimately funded twelve programs for a one-year period ending December 31, 2002. At its February 11, 2003 meeting the City Council approved renewal of these twelve Special Liquor Tax contracts for the period January 1, 2003 through December 31, 2003 with identical allocations and individual program budgets. One more option is available to renew the contracts with these programs for an additional year.

The Council is being requested to approve renewal of twelve (12) contracts with alcohol and substance abuse prevention and treatment programs. The renewal period will be from January 1, 2004 through December 31, 2004. Over the previous contract period the Special Liquor Tax Coalition reviewed each program's outcomes and the Coalition unanimously recommends that all programs' contracts be renewed at their full allocations. The total amount of the twelve (12) contracts was \$942,570 with the individual program allocations as follows:

(1) Sedgwick Co. Behavioral Health Center	\$ 98,865
(2) Big Brothers-Big Sisters	73,400
(3) Center for Health & Wellness	50,000
(4) TiyoSpaye, Inc. (Higher Ground)	15,000
(5) Mental Health Association (Pathways)	32,625
(6) Mid-America All-Indian Center (IATS)	43,870
(7) Miracles, Inc.	71,800
(8) Parallax Program, Inc. (Chronic Relapse)	109,410
(9) Parallax Program, Inc. (Detoxification)	250,000
(10) Regional Prevention Center, Inc.	149,070
(11) Youth Development Services, Inc.	33,530
(12) Knox Center	15,000

Funds are available in the Special Liquor Tax Fund to renew the twelve (12) contracts totaling \$942,570. The contracts will not obligate general fund monies.

Approval as to form by the Department of Law will be obtained prior to the execution of the contract renewals.

Mayor Mayans Mayor Mayans inquired about the results regarding the outcome of the programs. Stated that the results were shared with the coalition but the City is paying the bill and do not have the information on the outcome.

Maryann Fountain Ms. Fountain explained that the providers submit quarterly outcome performance measures to her and she reviews and fills out a report with a grading scale and reports it to the coalition every quarter and also sends copies to Cathy Holdeman.

Mayor Mayans Mayor Mayans requested that the City Council also receive a copy of these reports.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Motion-- Mayans moved that the contract renewals be approved and the necessary signatures be authorized.
--carried Motion carried 7 to 0.

132 N. MOSLEY 132 NORTH MOSLEY-PROPOSED DEVELOPMENT. (DISTRICT VI)

Terry Cassady City Manager's Office reviewed the item.

Agenda Report No. 03-1261

At its July 1, 2003 meeting, the City Council voted 6-0 (Mayor was absent) to override the findings of the Historic Preservation Board that the buildings located at 128-132 N. Mosley were contributing structures to the Old Town Historic District. Vice Mayor Fearey's motion was to "adopt the findings set

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forth in support of the Council's determination that there is no feasible and prudent alternative to the demolition of 128-132 N. Mosley; the program for the demolition includes all possible planning for minimizing harm to the Old Town Historic District; and the long-term plans should include plans for commercial development."

The City Council later executed (September 9, 2003) a purchase option of the 132 N. Mosley property (former Kansas Paint facility). The motion adopted was that "the purchase option and contract be approved; authorize the execution of documents necessary to close the purchase on or before October 1, 2003; and authorize soliciting bids for the demolition and parking improvements, as required; and the necessary signatures be authorized."

Following this action, bids were taken on the demolition of the existing buildings and construction of a new 87-space surface parking lot.

At its October 28, 2003 Workshop, a proposal was presented by Vice Mayor Fearey to consider obtaining development proposals for a building to be constructed - fronting on Mosley to allow for continuing block facade along Mosley - with the possibility of incorporating a 2-level parking deck to the rear - paralleling Washington Street. Bids award on the demolition and surface parking lot have been placed on hold pending further consideration of Vice Mayor Fearey's suggestion to explore the possibilities of having a building constructed on the site with deck parking.

At the November 25, 2003, City Council Workshop, a presentation was made regarding the construction of a parking deck on the eastern portion of the Kansas Paint parcel. This deck would extend across the existing parking lot - south of Mort's Cigar Bar to approximately the Old Town BBQ building. Along with the proposal for the parking deck it was suggested that a building be constructed on the site adjacent to and along Mosley Street. The buildings are proposed to be two-story brick construction with 6,000 square foot floor plans.

Also at this Workshop, it was noted that the southern portion of the former Kansas Paint building might possibly be retained and redeveloped. (This portion of the building was used for office and warehouse uses not paint manufacturing so it is not contaminated). The remainder of the site could be developed with surface parking and/or a combination of surface and deck parking.

There are currently three redevelopment options that have been proposed for the Kansas Paint site:

- (1) Proceed with the City Council's action (September 9, 2003) to demolish the buildings and construct surface parking that would add 87-parking spaces to the Old Town District. Based on that action, the City has proceeded with developing bid specifications for the demolition of the Kansas Paint buildings and for the construction of a surface parking lot. Bids for both the demolition and the parking lot construction have been received. Action on these bids must be taken no later than January 13, 2004, or based on the specifications, the bids will be invalid.
- (2) Solicit proposals to retain and redevelop the south Kansas Paint building. Either surface parking, structured deck parking or a combination could be constructed on the remainder of the Kansas Paint site and adjacent parking lots. Should the Council wish to pursue this option, a professional structural analysis would be required to determine the structural integrity of the building.
- (3) Demolish both Kansas Paint buildings and solicit proposals for redevelopment of the site that would include the construction of building(s) to maintain the Mosley Street facade and additional parking on the balance of the lot. The parking could be a combination of deck and surface parking, or surface parking only. A parking deck is estimated to cost approximately \$1.6 million for the construction of about 176 parking spaces (\$7,500 per stall).

If the current Kansas Paint (south portion) building is retained and/or additional buildings are constructed on the site, depending on the usage of the buildings, there will be parking requirements for these uses. (The amount of parking that will be required varies depending on whether the use is restaurant, retail/office, residential, or drinking establishment.) This could impact the number of parking spaces that are readily available for general public parking in this portion of Old Town even though any proposed buildings would be included in the Old Town Parking District.

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(Note) Bid specifications for the demolition and parking lot construction were developed based on the entire Kansas Paint site being developed as a parking lot. If new buildings are constructed on the site, additional fill and site preparation will probably be required if a portion of the site is being redeveloped with two-story structures.

The City's budget for this project was established at \$1,342,000 which included property acquisition, removal of hazardous materials, and development of demolition and parking lot specifications, and bid proposals for the property. To date, approximately \$834,331 has been expended. The remaining balance is designated to fund the demolition of the buildings and the construction of an 87-spaces surface parking lot.

There are two financing mechanisms that could be made available for constructing a parking deck: First, a budget has been established in the Capital Improvement Program for downtown parking. In 2005, there is a budgeted amount of \$1.0 million, and in 2006 there is a \$2.0 million allocation. The Old Town Tax Increment Financing District will have \$670,000 available in 2004 which could be used for construction of parking by action of the City Council.

A second financing option is to bond the majority of the project as a 10-year TIF debt. The project would have to be bonded in 2004. The maximum amount that could be financed would be \$1.1 million. The remainder of the cost could be financed through the original budget for the parking lot construction, the 2005 CIP core area funding available for parking, and/or any excess Old Town TIF funds.

If the south Kansas Paint building were retained, state and federal tax credits would be available for the redevelopment as it is listed historically as a contributing structure in the Old Town District. If tax credits were used, the Historic Preservation Board and the State Historic Preservation Office would have design review authority over the project. Tax credits are only available for redevelopment of existing historic structures and not the construction of new buildings in an historic district. Any new buildings constructed on the site would also be subject to historic design review.

The environmental remediation plan for this site required that the City and its contractors remove all hazardous material from the former Kansas Paint facility located at 132 N. Mosley Street. The buildings of the former paint facility were to be torn down (in part or whole). After demolition of the buildings, soils beneath the facility may also be removed if they are determined to have significant contamination. All portions of this property must be kept covered with an impermeable surface, such as asphalt or a concrete parking lot maintained in reasonably good repair to prevent/minimize rain infiltration into subsurface soils to prevent contamination traveling downwards to the underlying water table.

The existing south portion of the Kansas Paint building and any new building construction will be considered the same as an impermeable surface for the site. However, excavation for a foundation or basement could expose soils with significant contamination that may require remediation. The purpose of the impermeable surface is to prevent any remaining unknown residual soils contamination from impacting the underlying groundwater aquifer. Any development of the site would require an indemnification with appropriate financial security from the developer running to the City for any cleanup or remediation required from disturbance of the soils due to construction of the anticipated building(s). The City will still have responsibility for the cleanup of any undisturbed subsurface soils if, at a later date, an active source for groundwater contamination occurs.

John Brewer

Mr. Brewer who resides at 427 N. Broadview, stated that he is the President of the Merchants Old Town Association and that he is representing over half of the merchants in this area who support the demolition of both buildings and the installation of a parking lot for that part of the area that lacks parking which is a primary concern for the businesses in that quadrant of the district. Stated that the first issue that needs to be addressed is a parking lot layout that is going to be workable with future development. Feels that the parking lot layout should be looked at closer and that they have looked at how it might be laid out in such manner to retain almost all of the 87 parking stalls that are identified in that plan but reduce the amount of vehicular traffic through from Washington and Mosley and make it a more pedestrian friendly layout.

Dan Wilson

Mr. Wilson stated that he is with Wilson, Darnell, Mann and building owner of 105 N. Washington. Stated that his company was one of the first professional offices to go into Old Town about 10 years ago and they have seen a number of businesses struggle because of the lack of parking and they also

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struggle with parking issues during certain parts of the day. Stated that building owners adjacent to the Kansas Paint Building, that their desire is to see no further development in that area when those buildings are brought down but to do surface parking in that area. Stated that when his company first moved into that area it was quite charming but a lot of that has deteriorated. Stated that there is also a trash problem, with no place to put dumpsters. The plan that has been submitted does not accommodate or provide a place for trash.

- Mark Steiner Mr. Steiner stated that he and his partner owns Steiner Properties and they are the current building owners of the property just south of the Kansas Paint Building. Stated that the key issues that he would like to see avoided with any type of structure or garage would be any chance of higher parking fees, a construction nightmare of nine months to a year, traffic detours and the loss of visibility. Stated that this area definitely needs help in the way of surface parking and visibility and not another structure. The building and business owners in this quadrant of Old Town, have had spoken and are asking for the Council's immediate help without further delays. Stated that he strongly objects to any proposed parking structure and or building along Mosley.
- Sheldon Kamen Mr. Kamen stated that the 100 block in Old Town is currently experiencing problems with vacant buildings or partially sold and a number of them owned by various owners and in both cases there is a lack of parking. If there are vacant buildings the only way to take care of it is to lower the rent to get a tenant in there and as you lower the rent the area becomes less of a high class area and more of a seedy area.
- Greg Farris Greg Farris stated that he is here today to represent some of the owners of properties and businesses in Old Town and that they are in favor of the City Council reaffirming their decision. Stated that the real issue here is whether or not the City will gain anything by building a parking structure and saving a building and using it for some commercial purpose. Stated that this property is not big enough for a major parking facility without taking up existing parking spaces. Stated that they are asking that the Council reaffirm their decision and go ahead and allow the bids to be opened in a couple of weeks and perhaps let some of the speakers who are architects work with Staff.
- Rich Vilet Mr. Vilet stated that he is intimately involved in the old town area and that his company owns the buildings from the Larkspur east of Washington Street on Douglas. Stated that he affirms that the Council reaffirms their commitment to develop the parking and demolish the buildings and that this is a rare opportunity to provide a window of community and beauty into Old Town.
- Cybill Strum Ms. Strum asked that Historical Buildings stop being torn down.
- Frank Whitmer Mr. Whitmer stated that he is the owner of Mort's and is a resident of Old Town and echoes what has already been said. Stated that as a business owner he would benefit greatly from a surface parking lot but if a structure is placed there it would be a deterrent to his business.
- Motion-- Fearey moved that the City Council develop a request for proposal to seek a developer to either remodel the south Kansas Paint Building and or construct new buildings with the RFP to close on December 31st, which would still leave the bids on the parking lot good until January 12, 2004.
- Mayor Mayans Mayor Mayans stated that the testimony that the Council just heard from eight people including the President of the Old Town Association, is that they want both buildings torn down and a surface parking lot.
- Councilmember Fearey Councilmember Fearey stated that she has talked to other people who think that the City should look at other options that Mr. Brewer and Mr. Wilson spoke on keeping the street face on Mosley so there was some disagreement on how the parking should be done.
- Councilmember Gray Councilmember Gray stated that he is hearing that parking is needed but would like streetscape and the merchants of old town are saying that they would like streetscape but they do not necessarily feel that a building is what is required to adequately provide that streetscape.
- Councilmember Lambke Councilmember Lambke stated that a four-week period for an RFP is not a sufficient amount of time for most builders and developers to submit an RFP.

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Mayor Mayans Mayor Mayan opposed the motion because the speakers are the people who are trying to encourage business and provide jobs and create an atmosphere for customers. The City continues to want people to develop and visit down town and we set up as many barriers as we can. Stated that preservation is great but you will be preserving a whole bunch of empty buildings and the City cannot continue to spend millions of dollars to talk about development and then set barriers up.

--failed Motion failed 3-4. (No-Gray, Lambke, Mayans and Schlapp).

Motion-- Mayans moved that the Council affirm the demolition of the existing buildings and construction of a
--carried new 87 space surface parking lot. Motion carried 7 to 0.

SALE OF PROP. SALE OF CITY OWNED PROPERTY.

John Philbrick Director of Property Management reviewed the item.

Councilmember Fearey momentarily absent.

Agenda Report No. 03-1262

On July 15, 2003 the City Council designated the properties as available for sale to the public – subject to the conditions described. Staff was instructed to market these properties through mailings and notices to brokers, real estate firms and investors as well as posting on the Internet, distribution of flyers, property showings, etc. This marketing effort was to continue for ninety (90) days. During the marketing period, only offers above the minimum price were considered. Potential buyers were instructed to provide information on their proposed use, development time frame, and other pertinent information as well as price.

During the marketing period, approximately 350 requests for information on specific properties had been received and over 120 visits to the buildings offered for sale were recorded. At completion, 36 offers in amounts over the minimum price had been received on 15 properties. This does not include offers on property requiring KDOT approval for sale as these approvals have not been received. The proposals were reviewed by a committee of City staff members. On November 4, 2003, the Council approved staff recommendations on the offers and authorized staff to prepare sales contracts.

Exhibit A lists the properties under two main categories: The first category includes properties where the City has fee title and can sell total interest in the property with no restriction. The second group includes properties where the City has a permanent easement on the property. In these cases, the City has full control of the property (as long as the property is used for the specified purpose) but the prior owner has reversionary rights if the property is not used by the City, as specified. Any buyer would have to have acquired these revisionary rights to acquire fee title. Many of these properties also required approval by KDOT before they can be sold.

The surplus properties that the City held in fee title had an estimated value of approximately \$2,450,000. Above minimum offers were received on properties with estimated value of \$722,320 (30% of total portfolio value). These offers totaled \$832,726. In addition, offers below the minimum were received on properties valued at \$1,060,950 (43% of total value). Two of these, 432-434 Belmont and 1053 Acadia are in the process of being approved; others are still being negotiated.

Offers totaling \$40,000 was received on six (6) of the properties with reversionary rights. All of these properties require KDOT approval and are currently being reviewed by the State. The prices estimated for the reversionary properties assumed fee title. The value of the City's easement right is estimated at 15% to 70% of fee value.

The City Council at its Workshop on November 25, 2003 discussed further actions that could be taken for the disposal of property. The properties under contract represent the most marketable of the City's inventory. Of the requests for information, approximately 75% were related to these properties.

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Several of the remaining properties have physical conditions, or contractual prerequisites that impact their marketability. This is also true, by nature of the ownership, for all the revisionary properties.

The marketing program generated significant interest in the properties that the City holds in fee title. Staff is still receiving multiple calls per day about those properties. Currently, the portfolio is being marketed in same manner as it has been historically. The available properties are shown on the Internet and lists of properties are being provided to interested parties, including real estate agents on request. All offers are being negotiated – for amounts comparable to market values wherever possible-as received with recommendations made for acceptance or rejection.

In the past, there have been periodic discussions about auctioning City-owned properties. There are some properties in the portfolio that might lend themselves to auction, so long as the city has assurance that the proposed usage is compatible with area. Specifically, single-family vacant lots appear where there are few use restrictions or special conditions. Some of these have been marketed for several years and even offered for donation. To date, very little interest has been shown in these properties. There is an annual cost to mow and maintain the parcels. While they would not generate significant revenue, their sale would relieve an annual maintenance expense.

Another option is to group the properties into categories of use (i.e. residential, commercial, etc.) and to list these properties with real estate agencies that specialize in these particular uses. Request for Proposals would be sent to real estate firms for information on qualifications and the methodology for listing and marketing a particular group of properties.

The City will receive cash considerations from the sale of the properties at closing. Upon sale, the properties will return to the tax rolls and be redeveloped.

Mayor Mayans Mayor Mayans inquired if anyone wished to be heard and no one appeared.

Councilmember Lambke Councilmember Lambke stated that a lot of these properties are small square footage and asked if they are adjacent to properties that have ownership and if they are adjacent to a homeowner, has an attempt been made to notify those people that this land is available.

John Philbrick John Philbrick explained that in some cases they have but in most cases they have not because most of those properties that are adjacent to ownership require KDOT approval and they have approached KDOT on several properties to see if they could be released.

Motion-- Mayans moved that the packaging of these properties in categories of use be authorized and proposals from real estate firms that specialize in particular uses for listing and marketing of such properties be solicited and in addition, staff to be authorized to continue to solicit the sale of these available properties. Motion carried 7 to 0.
--carried

PLANEVIEW PROP. DISPOSITION OF PLANEVIEW PROPERTY.

Doug Kupper Director of Parks reviewed the item.

Agenda Report No. 03-1263

On April 1, 2003, the City Council approved the sale of three acres of City-owned land located north of 31st Street North between the Kansas Turnpike and the Fire Department's training center. Prior to approval by the Council, the sale of this parcel had been reviewed by the City's Development Coordinating Committee and the Park Board. Additionally, the Planning Department received an application to rezone the property which was then reviewed by District Advisory Board III before approval by MAPC and finally by the City Council.

Subsequent to the sale, it was discovered that this parcel had been included with other land as collateral for Land and Water Conservation grants in the 1970's. A condition of this grant was that if that if any of the collateralized land is sold, replacement of land of equal value must be acquired. A replacement parcel was identified in the Plainview area about ¾ mile north of the sale parcel. The replacement tract

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is owned by the City and located between Roosevelt and George Washington Boulevard behind residential development on Roseberry, Whitney and Fees. The tract consists of platted lots and unplatted reserve and contains 22.76 acres. It was appraised at \$48,000; the sold property was appraised at \$32,670 (also the sale price). Kansas Department of Wildlife and Parks and the Board of Park Commissioners have approved the substitution.

The purchaser of the sale property recently notified the City that he no longer has an interest in relocating his corporate office and manufacturing facility to this location. He has requested that the City buy-back the three-acre parcel for the amount paid plus expenses. The controversy resulting from the sale of the property was a contributing factor to the owner's decision to seek repurchase by the City. The sale price with closing costs totaled \$32,969.50. The associated expenses connected with engineering/zoning/platting, etc. for his development totals \$25,642.

The contract for sale states that the purchaser is to redevelop the property for commercial and/or retail use and the development must be initiated within 24-months of closing. The City has the right to repurchase the property for the amount paid at closing if these conditions are not fulfilled.

The City Council has two options:

Option #1: Reaffirm the sale of the property (from the April 1, 2003 Council Meeting) and designate the identified replacement parcel for park purposes.

Option #2: Repurchase the property for the sale price w/closing costs of \$32,969.50 and negotiate some or all of the related development expenses incurred by the owner. Expenses to date are \$25,642. With the option, the City would cancel its efforts to exchange the (newly) identified parkland property for this parcel.

If Option #1 is selected the replacement property is already titled in the name of the City. Therefore, designating its use for Park purposes will require no additional funds for land acquisition. The City intended to use a portion of the sale proceeds (not to exceed \$17,000) for the construction of a new trail adjacent to the property being sold. If Option #2 is selected by the City, the cost to the City will be \$32,969.50 at a minimum and could increase by as much as \$25,642 if the full cost for redevelopment is paid to the current owner. Proceeds from the sale would be utilized for the repurchase amount and any additional funding would have to be obtained from other sources.

Should Option #1 the City Council should approve the transfer resolution authorizing the designation of City-owned real property for use as park land. Should Option #2 be selected, the Law Department will approve all required contracts as to form.

- | | |
|----------------------|---|
| Councilmember Brewer | Councilmember Brewer inquired if Mr. Kupper had heard anything from the Park Board and the residents in that area. |
| Doug Kupper | Doug Kupper explained that the Park Board did review the property that they had discovered and were offering but have not had a conversation with Councilmember Lambke's DAB or the neighborhood at this point. It is their intent to be on Councilmember Lambke's agenda for his January DAB meeting and his neighborhood assistant is making sure that the Planeview Neighborhood is aware of that discussion at that time. |
| Councilmember Fearey | Councilmember Fearey inquired what the ramifications would be if the Council does not take action on this item until it goes back to the Park Board and the DAB in January, so that they would have this option to look at too; also at the last meeting a lot of people came to speak on this issue and did not get the opportunity to do that. |
| Doug Kupper | Doug Kupper explained that there would be no ramifications to the City if any decisions were delayed. |
| Mayor Mayans | Mayor Mayans inquired if anyone wished to be heard. |
| David Norris | Mr. Norris stated that he is the owner of the three acres in question. Stated that when the media brought this story out in the open that the City Council chose to stay mute allowing him and his business to get |

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maligned in this deal and allowing this lynch mob mentality of the media to run. Stated that he notified most of the Councilmembers and Staff and that he was willing to unwrap this deal because he does not like being involved in the middle of controversy. Stated that he is here to tell the City Council that he has no intention of putting his corporate executive offices on that site and will not invest anymore money on that property. All that he is asking is to be refunded for what he paid for the property and refund any costs that he has incurred that stay with the property. Stated that he is not asking for reimbursement for time delays that have been caused to him, construction costs and penalties that he will incur, just the costs that stay with the property.

- Mayor Mayans Mayor Mayans asked Mr. Norris what effect would it have on him if the Council were to send the issue back to the Park Board and the residents.
- David Norris Mr. Norris stated none.
- Carl Peterjohn Mr. Peterjohn stated that the City Council has admitted that an illegal meeting was held on the same day that this property transfer occurred. Stated that he has received numerous phone calls from individuals regarding misbehavior and inappropriate activities at the City and other units of government. Urged the City Council to look into complaints and concerns when they occur.
- Cybill Strum Ms. Strum stated that she has had abuse from the City every since she bought her home. She thinks that Wichita is not a compassionate City.
- Councilmember Lambke Councilmember Lambke stated that he hates to delay this issue but thinks that there are people who deserve to be heard and at the last council meeting they were not allowed to speak.
- Motion-- Lambke moved to defer this item until the Park Board and the DAB have been consulted. Motion
--carried carried 7 to 0.

LOBBYING SERV. CONTRACT LOBBYING SERVICES.

Chris Cherches City Manager reviewed the item.

Agenda Report No. 03-1264

On September 23, the City considered the utilization of contract lobbying services for the coming legislative year. A number of firms were considered and six firms who have the experience and recognition were contacted. Personal and telephone interviews were conducted with five firms. Each of the firms are highly capable and would provide the City with excellent representation.

The services performed by contract lobbyist include, but not limited to, representing the clients interests before the legislature and its legislative committees, meeting with clients, when necessary to explain legislative issues, maintain communication on matters impacting the client, monitoring legislative activity, facilitating (client) testimony before the committees, analyzing bills and research issues, and carry out other representations as required.

Once selected, Staff will negotiate the contract for services.

Fees for lobbying services are approximately the same, depending upon how expenses area handled. A budget amount of approximately \$50,000 is requested. Funding for this contract will be taken from the Governmental Relations position budgeted in the General Fund.

The City Council has the authority to enter into contracts for such professional services. Legal staff will review the contract as to form.

Chris Cherches Chris Cherches proposed to recommend Tom Burgess and Associate Firm for the City's contract Legislative Lobbying Service for the year 2004. Stated that this firm has years of experience in Topeka and good references and could not find any of their existing clients that he felt would be a potential conflict of interest.

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Mayor Mayans Mayor Mayans inquired if anyone wished to be heard.

Carl Peterjohn Mr. Peterjohn stated that he is also a lobbyist and expressed concerns with using tax funds to support positions that he and others may not agree on. Does not feel that this is an appropriate expenditure of funds and whatever that amount might be urges the City Council not to continue this practice.

Councilmember Martz Councilmember Martz explained that he does feel that it important that the City of Wichita be represented professionally at Topeka and disagrees with Mr. Peterjohn.

Motion-- Mayans moved to select Tom Burgess and Associate Firm to represent the City of Wichita for the
--carried upcoming legislative session. Motion carried 7 to 0.

CITY COUNCIL AGENDA.

**TRAVEL EXPEN. TRAVEL TO THE NATIONAL LEAGUE OF CITIES 80TH CONFERENCE, NASHVILLE
TENNESSEE-COUNCILWOMAN SCHLAPP. (DECEMBER 9TH THROUGH
DECEMBER 13, 2003)**

Motion--carried Mayans moved to approve the expenditure. Motion carried 6 to 1. (No-Lambke).

BOARD APPTS. BOARD APPOINTMENTS.

Councilmember Brewer Councilmember Brewer stated that his DAB had a high school student who sat on this board and would like to commend her for coming forward and explain why she could no longer serve on the DAB and why she is submitting her resignation. Would like to commend Tijuana Hardwell who is a student at Southeast High School for her performance and serving on the DAB.

Motion--carried Brewer moved to accept Tijuana Hardwell's resignation. Motion carried 7 to 0.

SEARCH FIRM SELECTION OF CITY MANAGER SEARCH FIRM.

Councilmember Fearey Councilmember Fearey reported that she and Councilmember Martz interviewed the five (5) possible selection firms and they felt that all five (5) of the firms would be able to do a good job for the City but after the interviews they felt that three (3) of the firms were excellent and would be comfortable with anyone of them. However, one of the firms had some outstanding answers to their questions and was more familiar with the City of Wichita and recommends the Robert Slavin Company to perform the work for the City of Wichita.

Councilmember Martz Councilmember Martz stated that the Slavin Company already has a good familiarization with our City and that they could promote the City of Wichita which none of the other firms had mentioned.

Motion-- Fearey moved to retain the services of The Slavin Company for the search of a new City Manager.
-- carried Motion carried 7 to 0.

OFF AGENDA ITEM OFF AGENDA ITEM.

Motion--carried Fearey moved to be allowed to bring an item up off the agenda. Motion carried 7 to 0.

Motion-- Councilmember Fearey moved to schedule a workshop for this afternoon preferably over lunch for two items: First to continue discussion of the CIP which could include the discussion of sending it on to our DABs and the second item would be the discussion of the citizens committee for the managers selection process.

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- Councilmember Martz Councilmember Martz explained that all five of the firms that they spoke to said that it was very important to have a group for the profiling of the city manager position. They meet one on one with each of the Councilmembers and the community group as a whole to help establish a profile for the position. They also emphasized that it was very important that that citizens group be sought out during the process and thereafter to help identify strengths and weaknesses of each of the candidates but not to rank them. If we do not have some kind of a process started today, we will miss a month of the recruiting process.
- Councilmember Lambke Councilmember Lambke stated that he does not think that we need a citizens committee because each of the Councilmembers represent 1/6 of the people.
- Councilmember Gray Councilmember Gray stated that even if the Council started today to start forming this group it would take up until the next meeting to appoint them and will take them time to organize themselves. Agrees that the Council needs to move on getting this committee formulated but not sure if it is possible for them to be involved in the early stages.
- Councilmember Brewer Councilmember Brewer stated that he has already been approached by individuals who are interested in being on this committee, but not sure how we would go about doing this.
- Councilmember Schlapp Councilmember Schlapp stated that she thinks that the citizen input is important and likes the idea of focus groups. Stated that she would be in favor of having focus groups in the beginning stages of this process and have the citizens committee towards the end.
- WITHDRAWN** Councilmember Fearey withdrew her motion with consent of the second regarding the CIP workshop today.
- Mayor Mayans Mayor Mayans stated that the Councilmembers who want to meet and discuss the citizen committee to go ahead and meet and discuss on their own. Stated that this will slow down the process.
- Councilmember Martz Councilmember Martz explained that the reason for having community involvement is for everyone to feel like they have and will have a part in identifying the position.
- Mayor Mayans momentarily absent, Vice-Mayor Fearey in the chair.
- Councilmember Schlapp Councilmember Schlapp suggested that the four Councilmembers who are in favor of this could get together and just have a discussion with no action taken.
- Motion-- Fearey moved that the City Council schedule a workshop for noon Friday, December 5th in the board room for the purpose of discussing the citizen committee for the selection process. Motion carried 7 to 0.
- carried

CONSENT AGENDA

- Motion--carried Mayans moved that the Consent Agenda be approved as consensus Items. Motion carried 7 to 0.

BOARD OF BIDS. REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED DECEMBER 1, 2003.

Bids were opened November 21, 2003, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

Lincoln and McLean Intersection - along McLean from 184 meters south of Lincoln to 180 meters north of Lincoln. (87N-0225-01/472-83799 /706863 /203329) Traffic to be maintained during construction using flagpersons and barricades. (District IV)

Cornejo & Sons Construction - \$544,647.85 (Subject to KDOT approval)

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K-96 Bikepath from Grove Park to Oliver - south of K-96 from west of Hillside to Oliver. (87 TE-0115-01/472-82850/785972/399129) Traffic to be maintained during construction using flagpersons and barricades. (District I)

Kansas Paving Company - \$360,195.94 (Subject to KDOT approval)

Merton Sanitary Sewer Relief Line - along Merton Street, west from Sheridan. (468-83698/620387/663508) Traffic to be maintained during construction using flagpersons and barricades. (District IV)

WB Carter Construction - \$36,231.00

2004 Utility Cut Repair of Streets, Driveways and Sidewalks - north of 71st Street South, east of 167th Street West. (472-83876/132035/620369/NA/663490) Traffic to be maintained during construction using flagpersons and barricades. (District ALL)

Cornejo & Sons Construction - \$1,717,800.00 (Engineer's estimate)

Lateral 359 Four Mile Creek Sewer to serve Killenwood Pointe Addition - south of 13th Street North, east of Greenwich. (468-83724/744020/480708) Does not affect existing traffic. (District II)

K C Excavating - \$17,770.00

Kellogg (US 54) and Rock Road Interchange Part 4: Grading, Underground Utilities and Temporary Seeding - along North Frontage Road between Rock Road and Gypsum Creek. (472-83853/702328/401344) Traffic to be maintained during construction using flagpersons and barricades. (District II)

Wildcat Construction - \$888,007.00

Motion--

Mayans moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Roof Replacement.

Larry Booze Roofing - \$82,112.00 (Group 1/Total Net bid)

PUBLIC WORKS DEPARTMENT/TRAFFIC MAINTENANCE DIVISION: Street Name Signs.

Fulsom Brothers Inc. - \$31,157.34 (Group 1/Total Net bid)

PUBLIC WORKS DEPARTMENT/WATER MANAGEMENT DIVISION: Fabrique at Mt. Vernon Drainage Improvement.

W B Carter Construction Co. - \$207,606.00 (Group 1/Total Net bid)

HOUSING SERVICES/PUBLIC HOUSING DIVISION: Bathroom Modifications Various Sites.

Arambula Construction Co. - \$26,500.00 (Group 1/Total Net bid)

\$29,500.00 (Group 2/Total Net bid)

HOUSING SERVICES/PUBLIC HOUSING DIVISION: Replace Roof & Gutters-Variou Sites.

Arambula Construction Co.- \$17,523.00 (Group 1/Total Net bid)

\$15,576.00 (Group 2/Total Net bid)

PUBLIC WORKS DEPARTMENT/BUILDING DIVISION: Demolition and Related Services – Kansas Paint.

Cornejo & Sons Construction - \$230,856.00* (Total net bid)

\$ 86.60* (Group 1/Option 1/Total Net Bid/per ton)

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\$ 1,325.00* (Group 1/Option 2/Total Net Bid/per ton)

\$ 1,310.00* (Group 1/Total Net bid/Option 3)

*Subject to City Council approval

Motion--
--carried
LICENSES

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

APPLICATION FOR LICENSES FOR ADULT ENTERTAINMENT ESTABLISHMENTS /SERVICES:

Renewal - Adult Entertainment

Ronald H. Groves
Valerie Washington

Party Center 9601 East Kellogg
Camelot Theater 1519 South Oliver

Motion--
--carried

Mayans moved that the licenses, subject to Staff review and approval, be approved. Motion carried 7 to 0.

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2003</u>	<u>(Consumption on Premises)</u>
Doug E. Beckham	Lenola's	1528 South Washington
Eugene J. Pelz	Siesta Steak Lounge*	15130 West Highway 54
Carmen Rosales	Connie's Mexico Café*	2227 North Broadway
Bernard J. Berning	Pizza Villa Restaurant*	2342 South Maize Road
Cheryl L. Gehlen	Annex Lounge	6305 East Harry
W. Kent Myer	Sim Park G.C.*	2020 West Murdock
<u>Renewal</u>	<u>2003</u>	<u>(Consumption off Premises)</u>
Jayanti B. Patel	Food Mart #210	10723 West Highway 54
Jayanti B. Patel	Food Mart #205	7101 East Lincoln
<u>New Establishment</u>	<u>2003</u>	<u>(Consumption on Premises)</u>
Tane Chanthivong	Chiang Mai Thai Restaurant*	3141 South Hillside #105
Hai T. Huynh	Imbiss Grille*	315 North Mead
<u>New Operator</u>	<u>2003</u>	<u>(Consumption off Premises)</u>
Todd Henderson	Presto #32	3311 North Rock Road
Todd Henderson	Presto #33	2190 North Rock Road
Todd Henderson	Presto #34	1250 South Rock Road
Todd Henderson	Presto #37	1254 South Tyler
Todd Henderson	Presto #40	4414 West Maple
Todd Henderson	Presto #41	7136 West Central
Todd Henderson	Presto #42	7990 East Central
Todd Henderson	Presto #43	2001 South Oliver
Todd Henderson	Presto #44	7236 West 21st Street
Todd Henderson	Presto #45	4821 South Broadway
Todd Henderson	Presto #46	515 North Seneca
Todd Henderson	Presto #47	2356 South Seneca
Todd Henderson	Presto #48	1350 North Oliver

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--
--carried

Mayans moved that the licenses, subject to Staff review and approval, be approved. Motion carried 7 to 0.

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PRELIMINARY ESTS. PRELIMINARY ESTIMATES:

- a) Water distribution system to serve Pine Meadows Second Addition - south of 13th Street North, east of Greenwich. (448-89648/735152/470822) Does not affect existing traffic. (District II) - \$31,000.00
- b) Water distribution system, Phase 1 to serve Hawthorne Addition - north of 21st Street North, east of 127th Street East. (448-89737/735155/470825) Does not affect existing traffic. (District II) - \$26,000.00
- c) Water distribution system, Phase 2 to serve Hawthorne Addition - north of 21st Street North, east of 127th Street East. (448-89728/735153/470823) Does not affect existing traffic. (District II) - \$47,000.00
- d) Water Distribution System, Phase 3 to serve Hawthorne Addition - north of 21st Street North, east of 127th Street East. (448-89862/735154/470824) Does not affect existing traffic. (District II) - \$114,000.00
- e) Harry, Oliver to Woodlawn (87N-0191-01/472-83685/706852/203318) Traffic to be maintained during construction using flagpersons and barricades. (District III) - \$2,710,000.00
- f) Installation of streetlights on Waterfront Parkway between 13th Street North and Webb Road (472-82808/765809/490920) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$125,000.00
- g) 2003 contract maintenance asphalt mill & overlay Phase 2 - north of 47th Street South, east of Hydraulic. (472-83877/132714/) Traffic to be maintained during construction using flagpersons and barricades. (District II & III) - \$170,000.00

Motion--carried

Mayans moved that the Preliminary Estimates be received and filed. Motion carried 7 to 0.

DEEDS/EASEMENTS: DEEDS AND EASEMENTS:

- a) Utility Easement dated September 10, 2003 from Dillon Real Estate Co., Inc., a Kansas Corporation for a tract of land located in Reserve "A", Auburn Hills Commercial Addition, Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.
- b) Utility Easement dated September 10, 2003 from Dillon Real Estate Co., Inc., a Kansas Corporation for a tract of land located in Lot 1, Auburn Hills Commercial Addition, Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.
- c) Utility Easement dated September 11, 2003 from Rita A. Neville as Trustee of Neville Trust III, for a tract of land located in Lot 3, Auburn Hills Commercial Addition, Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.
- d) Utility Easement dated September 11, 2003 from Rita A. Neville as Trustee of Neville Trust III, for all of Reserve "A", Auburn Hills Commercial Addition, Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.
- e) Utility Easement dated September 11, 2003 from Rita A. Neville as Trustee of Neville Trust III, for a tract of land located in the Northwest Quarter of Section 25, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.
- f) Public Utility Easement dated October 7, 2003 from Troy A. Fawcett and Joan M. Fawcett for a tract of land located in Lot 3, Auburn Hills Commercial Addition, Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.

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- g) Dedication from the City of Wichita, a Municipal Corporation for a tract of land located in Lots 1, 3, 5, 7, 9 and 11, Hopkins' and Elwood's Subdivision of Lot 1 in Block 1 in the Chautauqua Place Addition to Wichita, Kansas (Hillside, Kellogg to Central, OCA #706834). No cost to City.
- h) Dedication from the City of Wichita, a Municipal Corporation for a tract of land located in the southwest quarter of the Northwest Quarter of Section 27, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas (Hydraulic, 47th to 57th, OCA #706810). No cost to City.
- i) Dedication from the City of Wichita, a Municipal Corporation for a tract of land located in the northwest quarter of the Southwest Quarter of Section 27, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas (59th St, OCA #205021). No cost to City.

Motion--carried Mayans moved that the Deeds and Easements be accepted. Motion carried 7 to 0.

COST STATEMENTS STATEMENTS OF COST:

- a) Old Town Cinema - Total Cost- \$9,300,000.00 (plus temporary note financing - \$165,451.57; plus idle fund interest - \$14,548.43; less financing previously issued - \$0.00). Financing to be issued at this time \$9,480,000.00. (792347/435-317).

PARTIAL STATEMENTS OF COST:

- b) (Second Partial) Estimate of Cost for improving N.E. Baseball Complex- \$50,000; less financing previously issued - \$30,000. Financing to be issued at this time - \$20,000. (792352/435-322).
- c) (Second Partial) Estimate of Cost for improving CMF Expansion- \$458,371.03; less financing previously issued - \$100,000. Financing to be issued at this time - \$358,371.03. (792369/435-339).

Motion--carried Mayans moved that the Statements of Cost be approved and filed. Motion carried 7 to 0.

PETITIONS PETITION TO PAVE WAWONA STREET TO SERVE THE COLLECTIVE AND LANZRATH ADDITIONS-EAST OF K-96 – SOUTH OF 21ST STREET. (DISTRICT II)

Agenda Report No. 03-1265

The Petitions have been signed by three owners, representing 100% of the improvement districts.

The projects will provide paved access to new commercial developments located east of K-96 expressway, south of 21st.

The Petitions total \$200,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried Mayans moved that the Petitions be approved and the Resolutions be adopted.. Motion carried 7 to 0.

RESOLUTION NO. 03-625

Resolution of findings of advisability and Resolution authorizing improving Wawona from the south line of 21st Street North to the north line of Lot 3, Block 1, the Collective, (east of K-96, south of 21st Street) 472-83455, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans

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RESOLUTION NO. 03-626

Resolution of findings of advisability and Resolution authorizing improving Wawona from the north line of Lot 3, Block 1, the Collective to the south line of Lot 3, Block 1, the Collective, (east of K-96, south of 21st Street) 472-83884, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans

BLDG FACADE

RENOVATE BUILDING FACADE AT 1011 AND 1017 WEST DOUGLAS. (DISTRICT IV)

Agenda Report No. 03-1266

On March 20, 2001, the City Council approved a Facade Improvement Program designed to provide low-cost loans to enhance the visual aesthetics in the downtown area and provide an incentive for businesses to improve their property. Low interest, fifteen-year loans are provided owners of buildings with frontage on Douglas Avenue, between Seneca and Washington. Up to two facades can be improved with 25% of the cost up to \$30,000 in the form of a forgivable loan. The owner of a building located at 1011 and 1017 W. Douglas has submitted the required Petition. The signatures on the Petition represent 100% of the improvement district.

The building is currently occupied by a restaurant. The proposed improvements include installing awnings, painting the storefront, and upgrading the business entries.

The estimated project cost is \$50,000, with \$37,500 paid by Special Assessments and \$12,500 by a forgivable loan.

State Statutes provide the City Council authority to use Special Assessment funding for the projects. Approval of the Petition does not relieve the owner of requirements to obtain all necessary permits and reviews by applicable City Boards.

Motion -- carried

Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 03-627

Resolution of findings of advisability and Resolution authorizing construction of facade improvements at 1011 and 1017 West Douglas (south of Douglas, east of Seneca) 472-83896 in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans

STREET CLOSURES

CONSIDERATION OF STREET CLOSURES/USES.

Agenda Report No. 03-1302

In accordance with the Special Events Procedure, event sponsors are to notify adjacent property owners and coordinate arrangements with Staff, subject to final approval by the City Council.

The following street closure requests have been submitted:

1. Frosty Fun Run – Thursday, January 1, 2004 – 10:30 a.m. – Noon
 - Third & Market
 - Third & Main
 - Third & Waco
 - Second & Waco
 - First & Waco

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

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Motion-- Mayans moved that the street closure be approved subject to: (1) Event sponsors notifying every property and/or business adjoining any portion of the closed street; (2) Coordination of event arrangements with City Staff; (3) Hiring off-duty public safety officers as required by the Police Department; (4) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; (5) Submitting a Certificate of Insurance evidencing general liability insurance which covers the event and its related activities, including the naming of the City as an additional insured with respect to the event's use of the closed City streets. Motion carried 7 to 0.

--carried

BOARDS MINUTES MINUTES OF ADVISORY BOARDS/COMMISSIONS:

Around the House: Wichita Housing Services, Sept/Oct 2003
Housing Advisory Board, September 16, 2003
Police & Fire Retirement System Meeting, September 24, 2003
Joint Investment Committee Meeting, October 2, 2003
Wichita Airport Advisory Board, October 6, 2003
Joint Investment Committee's Subcommittee Minutes, October 9, 2003
Board of Code Standards and Appeals, October 13, 2003
Board of Park Commissioners, October 13, 2003
Board of Electrical Appeals, October 14, 2003
Wichita Employee's Retirement System, October 15, 2003
Wichita Public Library Board of Directors, October 21, 2003
Wichita Police & Fire Retirement System, October 22, 2003
Around the House: Wichita Housing Services, Nov/Dec 2003

Motion--carried Mayans moved that the Minutes be received and filed. Motion carried 7 to 0.

CENTRAL IMP. CHANGE ORDER: CENTRAL IMPROVEMENT, MAIZE TO TYLER. (DISTRICT V)

Agenda Report No. 03-1267

On November 19, 2002, the City Council approved a project to improve Central, between Maize and Tyler. One part of the work is upgrading the storm sewer system. Excavation for the installation of manholes reveals the existing crossroad pipes to be corrugated metal and badly deteriorated. Upon exploration of Central's existing asphalt surface, multiple failures were observed, indicating the existence of similar deterioration beneath the roadbed. If left in place as planned, continued deterioration of these storm sewer pipes will undermine the integrity of the new surface. In addition, wheelchair ramps with a detectable warning surface are required in order to comply with Federal disability regulations.

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The total cost of the additional work is \$19,499. The funding source is General Obligation Bonds.

The Change Order amount is within the construction contract cost limit set by the City Council policy.

Motion-- Mayans moved that the Change Order be approved and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

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KELLOGG MALL

AGREEMENT TO RESPREAD ASSESSMENTS: KELLOGG MALL ADDITION, SOUTH OF DOUGLAS, EAST OF ROCK ROAD. (DISTRICT II)

Agenda Report No. 03-1268

The landowner, Simon Property Group, L.P., a Delaware Limited Partnership, has submitted an Agreement to respread special assessments within Kellogg Mall Addition.

The land was originally included in a couple of improvement districts for several public improvement projects. The purpose of the Agreement is to respread special assessments to more fairly distribute the cost of the improvements.

There is no cost to the City.

Motion--
--carried

Mayans moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 7 to 0.

AUBURN HILLS

FINALIZATION OF LAND OWNERSHIP: AUBURN HILL GOLF COURSE. (DISTRICT V)

Agenda Report No. 03-1269

During construction of Auburn Hills golf course, the development of the 13th hole inadvertently encroached on two adjacent properties. One is owned by West Wichita Development and the other is owned by Howard and Doris Rishel. These owners have agreed to deed the impacted areas to the City. In addition, the Rishel's have agreed to restrict construction of buildings on a tract they own adjacent to the golf course. In exchange, the City is proposing to transfer a portion of City owned land to the Rishel's.

The transfers by West Wichita and the Rishel's will give the City ownership of its improvements. The agreement to restrict development provides open space adjacent to the golf course. The land the City is transferring to the Rishel's is part of a low area. While uniting their ownership, the transfer to the Rishel's also relieves the City of maintenance responsibility for the tract.

This transfer has no financial impact.

Motion--
--carried

Mayans moved that the transfers and Agreement/Contract be approved and the signatures be authorized. Motion carried 7 to 0.

BOATHOUSE

WICHITA BOATHOUSE CUSTODIAL SERVICES. (DISTRICT IV)

Agenda Report No. 03-1270

The Wichita Boathouse is a high profile facility used for meetings, parties, receptions, etc. Events at this facility may be scheduled on legal and religious holidays and at any time during the day or night.

A Request for Proposal (RFP) to provide Custodial Services was mailed to 66 vendors. Eight vendors responded. Global Advanced Technologies was selected because of their qualifications and ability to meet the RFP stated requirements. They are the current vendor for this facility and have provided excellent and quality service for the Wichita Boathouse since 1994.

The estimated cost of the yearly contract is not to exceed \$29,520. Sufficient funds are budgeted for 2003 in the Wichita Boathouse budget.

The contract will be for one year, with annual renewal options for an additional two years.

Motion--
--carried

Mayans moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 7 to 0.

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BOATHOUSE

WICHITA BOATHOUSE BUILDING ATTENDANT – UNARMED SECURITY, (DISTRICT IV)

Agenda Report No. 03-1271

The Wichita Boathouse is a high profile facility used for meetings, parties, receptions, etc. Events at this facility may be scheduled on legal and religious holidays and any time during the day or night

A Request for Proposal (RFP) to provide security services was mailed to 16 vendors. Four vendors responded. Myers Investigative and Security Services was selected because of their qualifications and ability to meet the RFP stated requirements. They will be a new vendor for the Wichita Boathouse.

The estimated cost of the yearly contract is not to exceed \$16,000. Sufficient funds are budgeted for 2003 in the Wichita Boathouse budget.

The Law Department will review and approve the contract as to form. The contract will be for one year, with annual renewal options for an additional two years.

Motion--
--carried

Mayans moved that the Agreement/Contract be approved and the signatures be authorized. Motion carried 7 to 0.

BROOKS FIBER

FRANCHISE AGREEMENT-BROOKS FIBER COMMUNICATIONS OF MISSOURI, INC.

Agenda Report No. 03-1272

Ordinance No. 41-442 passed and approved in June of 1991 granted a point-to-point franchise to WTG-West for a fiber optic telecommunication system. Brooks Fiber Communications of Missouri, Inc is a successor to WTG-West.

Brooks Fiber of Missouri, Inc. seeks both to expand the route of its point-to-point franchise and to be franchised as a competitive local exchange carrier. Two franchise agreements are proposed to accomplish both objectives.

Both of the franchise agreements are consistent with current franchises for like situated entities and are drafted to be competitively neutral as required by federal law.

Under the 1991 ordinance, the City has been receiving a franchise fee of \$2.50 per foot per year for the route authorized under the ordinance. This payment amounts to \$18,235 per year. Under the new point-to-point franchise the annual payment to the City would increase to \$23,517. Any future changes to the point-to-point route would require action by the City Council.

Payment under the local exchange service franchise will be based on 5% of the gross receipts of the Company from sales of service within the city limits.

Franchise ordinances require two readings.

Motion--
--carried

Mayans moved that the Agreements/Contracts for the fiber optic telecommunications system and the local exchange service contract franchises be approved; the Ordinances be placed on first reading; and the necessary signatures be authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance of the City of Wichita, Kansas, granting to Brooks Fiber Communications of Missouri, Inc., the right and privilege to construct, operate, and maintain a fiber optic telecommunication system in the City of Wichita; and prescribing the terms of said grant and relating thereto, introduced and under the rules laid over.

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ORDINANCE

An Ordinance of the City of Wichita, Kansas, granting to Brooks Fiber Communications of Missouri, Inc., A telecommunications Local Exchange Service Provider, a Contract Franchise for the providing of local exchange service in the City of Wichita; and prescribing the terms of said Grant and relating thereto, introduced and under the rules laid over.

KELLOGG/ROCK RD KELLOGG/ROCK ROAD INTERCHANGE SUPPLEMENTAL. (DISTRICT II)

Agenda Report No. 03-1273

On June 10, 1997, the City entered into an agreement with Cook, Flatt, and Strobel to begin preliminary design for East Kellogg, from Edgemoor to 127th East. On May 8, 2001, the City Council entered into an agreement with Cook, Flatt, and Strobel to prepare construction plans for the Kellogg/Rock Road Interchange.

On April 2, 2002, the City Council adopted Ordinance 45-294, which authorizes construction and provides funding for the project.

The project design is nearing completion, and substantial amounts of right-of-way have been acquired. Originally, the Kellogg/Rock project was designed to be constructed as one large contract. Because of the time required to clear the right-of-way at two locations, the project has been divided into several smaller projects, which utilize the right-of-way that has been acquired.

This approach will result in lower construction costs. It also improves the project's position should the State choose to eliminate System Enhancement funding for projects that have not begun.

The agreement, dated June 10, 1997, with Cook, Flatt, and Strobel, provides that Cook, Flatt, and Strobel, when authorized by Supplemental Agreement, will perform construction inspection and administration services. The proposed Supplemental Agreement will provide construction inspection and administration for the early phases of the project, and provide for reformatting the large project into several smaller projects.

Payment to Cook, Flatt, and Strobel will be on a cost plus fixed fee in amount not to exceed \$1,126,352.16. The total project cost is estimated at \$105 million. The State of Kansas will contribute \$35,690,000 to assist with project construction. The balance of the funding will be provided by the City through the issuance of General Obligation Sales Tax Bonds with debt service payable from the annual proceeds of the Local Sales Tax.

This is Capital Improvement Program F-32 and is authorized by Ordinance 45-294.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

WATERFRONT ADD. CONSTRUCTION ENGINEERING AND STAKING FOR THE WATERFRONT ADDITION-NORTH OF 13TH STREET, EAST OF WEBB SUPPLEMENTAL. (DISTRICT II)

Agenda Report No. 03-1274

The City Council approved the project on July 1, 2003. On September 16, 2003, the City approved an Agreement with MKEC Engineering Consultants, Inc. (MKEC) to design the improvements. The Design Agreement with MKEC requires MKEC to provide construction engineering services if requested by the City.

The proposed Supplemental Agreement between the City and MKEC provides for construction engineering and staking for improvements in The Waterfront Addition. Due to the current workload

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created by previous projects, City crews are not available to perform the construction engineering for this project.

Payment will be on a lump sum basis of \$9,150.00 and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

FOX RIDGE ADD.

CONSTRUCTION ENGINEERING AND STAKING FOR FOX RIDGE ADDITION-NORTH OF 29TH STREET - BETWEEN MAIZE AND TYLER, (DISTRICT II)

Agenda Report No. 03-1275

The City Council approved the project on August 5, 2003. On September 16, 2003, the City approved an Agreement with MKEC Engineering Consultants, Inc. (MKEC) to design the improvements. The Design Agreement with MKEC requires MKEC to provide construction engineering services if requested by the City.

The proposed Supplemental Agreement between the City and MKEC provides for construction engineering and staking for improvements in Fox Ridge Addition. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering for this project.

Payment will be on a lump sum basis of \$14,300 and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

GOLF CONTRACTS

GOLF PROFESSIONAL CONTRACTS.

Agenda Report 03-1276

The City currently operates five municipal courses. All maintenance functions at all courses are performed by City staff. At one course (Auburn Hills), City staff also manages the clubhouse. Recently, the contract managers of LW Clapp and MacDonald golf courses have terminated their contracts with the City, under a 90 day cancellation provision. City operation of these two courses has been assumed by the City. Sim and Tex Consolver are managed by contracted PGA Pros. These contracts will expire on December 31, 2003.

Contracted Pros are required to manage and staff the clubhouse, stock a pro shop, offer concessions, provide starters and marshals for course play and maintain a fleet of golf carts. The PGA Pros are also expected to offer lessons and to promote the game of golf and specifically golf at the municipal courses. The City provides each Pro with a monthly stipend of \$800. The Pros retain all lesson, pro shop and concession revenues. The Pros remit 42.6% of cart revenues to the City. All course play revenue collected by the Pro is remitted to the City. At Tex Consolver course, the Pro remits 25% of driving range revenue to the City (Sim Course does not have a driving range). The proposed new contracts include a two year term.

The proposed golf professional contracts do not include any significant modifications to the past terms. The Golf budget includes funding for the contracts.

The contracts will be subject to approval as to legal form by the Department of Law.

Motion--
--carried

Mayans moved that the contracts be approved and the necessary signatures be authorized. Motion carried 7 to 0.

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BUS ADVERT.

BUS ADVERTISING SALES AND SERVICE CONTRACT.

Agenda Report No. 03-1277

On or about September 8, 2003 Wichita Transit (WT) published a RFP for the sale of advertising on WT's vehicle fleet in the Wichita Eagle, The Community Voice, a local minority oriented publication and Passenger Transport, a national transportation industry publication. Responses were due to the purchasing office by the close of business October 10, 2003. Houck Motor Coach Advertising of St. Paul, Minnesota was the only respondent. The Print Source, Inc. of Wichita currently performs sales of advertising on WT's fleet under contract since August 1997. The Print Source, Inc has agreed to continue under the existing contract until a new contractor is in place. The contract provides that already sold advertising agreements may be transferred from The Print Source, Inc. to the new contractor.

WT evaluated and proposes to accept the proposal submitted by Houck Motor Coach Advertising (HMCA). HMCA has been in the transit advertising business for over 80 years, specializing in markets similar to Wichita. HCMA is highly regarded throughout the transit industry. Among the transit properties providing favorable references are: Duluth Transit Authority, Omaha Metro Area Transit and Lincoln Star Transit. HMCA has been successful in obtaining both local and national clients in each of its markets. WT is confident that HMCA can successfully carry out an advertising sales program for transit in the City of Wichita.

HMCA will pay WT a minimum guarantee of \$46,000 per year for three years plus 50% of net sales in excess of \$46,000. The minimum guarantee will not apply during the first six-month transitional period of the contract. The current contract with The Print Source Inc pays a minimum grantee of \$25,000 per year.

Motion--
--carried

Mayans moved that the Agreements/Contracts be approved and the necessary signatures be authorized. Motion carried 7 to 0.

DESIGN SER AGMNT. HAWTHORNE AND HAWTHORNE SECOND ADDITIONS-NORTH OF 21ST STREET, EAST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 03-1278

The City Council approved the project on September 9, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements in Hawthorne & Hawthorne 2nd Additions. Per Administrative Regulation 7a, staff recommends the selection of MKEC as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment will be on a lump sum basis of \$27,600, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

BRIGHTON COURTS BRIGHTON COURTS ADDITION-SOUTH OF 21ST STREET, WEST OF WEBB. (DISTRICT II)

Agenda Report No. 03-1279

The City Council approved the project on July 15, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements in Brighton Courts Addition. Per Administrative

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Regulation 7a, staff recommends the selection of MKEC as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment will be on a lump sum basis of \$53,600, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures be authorized.
Motion carried 7 to 0.

REED'S COVE

REED'S COVE AND REED'S COVE SECOND ADDITION-SOUTH OF 21ST STREET, EAST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 03-1280

The City Council approved the project on November 4, 2003.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements in Reed's Cove & Reed's Cove 2nd Addition. Per Administrative Regulation 7a, staff recommends the selection of MKEC as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment will be on a lump sum basis of \$23,450, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures be authorized.
Motion carried 7 to 0.

PROPERTY ACQ.

PROPERTY ACQUISITION: PARTIAL ACQUISITION OF THE ELMS, LLC HARRY STREET IMPROVEMENT: BETWEEN I-35 AND GEORGE WASHINGTON BOULEVARD. (DISTRICTS I AND II)

Agenda Report No. 03-1281

The 2003 Capital Improvement Program includes a project to improve Harry between I-135 and George Washington Boulevard. The project provides for the reconstruction of Harry to provide four through lanes and a center two-way left turn lane. The project will require the removal of off-street parking along a portion of the north side of Harry at 1514 South Green to 2902 East Harry. The property site contains 255,280 square feet and is improved with thirty 4-plex brick apartment units consisting of 2,555 square feet and constructed in 1943.

The planned improvement of Harry will require a 10 foot strip of land adjacent to Harry. The acquisition consists of 10,900 square feet and will remove the off-street parking for apartment units. To maintain code compliance, present parking currently located within the acquisition area must relocate further north on the subject property. The land being acquired was appraised and the costs to replace the parking researched. This was valued at \$194,250. The owners have agreed to accept this amount in exchange for the required area.

Funds have been budgeted in the Capital Improvement Program for acquisitions for this project. The funding source will be General Obligation Bonds. A budget of \$200,000 is requested. This includes \$194,250 for the acquisition, and \$5,750 for closing costs and title insurance.

Motion--
--carried

Mayans moved that the budget and contract be approved and the necessary signatures be authorized. Motion carried 7 to 0.

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CLAIM

SETTLEMENT OF CLAIM.

Agenda Report No. 03-1282

During the spring and summer of this year, claimant worked with the City's Office of Central Inspection, regarding the remodel of a business, which included an installation of a kiln. The kiln was not commercially purchased and there were unique issues. The claimant and the City's inspectors disagreed about the method of installation. The claimant ultimately appeared before the City's Mechanical Board for approval. Approval with specific requirements was given. The kiln's subsequent installation was approved by City inspectors. A fire occurred during the kiln's first use, damaging the building.

After investigating the claim, evaluating the extent of the claimed damages, and considering the risks of trial, the City determined that a resolution of this matter was appropriate. After some discussion and negotiation, the City has been offered an opportunity to resolve the claim with a lump sum payment of \$13,435.12 as full settlement of all claims arising out of these events. Because of the risks associated with litigation, the Law Department recommends acceptance of the offer.

Funding for this settlement payment is from the City's Tort Liability Fund.

The Law Department recommends acceptance of the offer of settlement.

Motion--
--carried

Mayans moved that the payment of \$13,435.12 as a full settlement of all possible claims arising out of the incident which is the subject of the claim, be authorized. Motion carried 7 to 0.

HOMELESS

HOMELESS ASSISTANCE.

Agenda Report 03-1283

For the past several years the City of Wichita has assisted with the costs associated with the operation of a winter emergency overflow shelter. This emergency shelter is organized and coordinated by Inter-Faith Ministries and consists of several churches in the downtown area donating shelter space when needs exceed the capacity of other Wichita shelters. These churches take turns opening their doors to the homeless and offering a warm place to sleep for the night when temperatures fall below 30 degrees. United Way, the County and the City have provided funding for operational costs of the shelter, allowing it to open the latter part of November through the first part of March.

At its September 16, 2003 meeting the Council authorized \$7,500 in federal Community Services Block Grant (CSBG) funds for operation of the overflow shelter. Inter-Faith Ministries has provided a cost analysis, which indicates that it needs a total of \$10,500 in City contributions to operate the shelter this winter season. Both Sedgwick County and the United Way are also contributing \$10,500 toward the operation of the shelter.

In the past, the City has provided financial assistance to Inter-Faith Ministries, the organization that coordinates the operation of the winter overflow shelter.

It is not uncommon to have over 100 individuals needing a place to sleep. The winter emergency overflow shelter is in addition to the six full-time homeless shelters that operate year round and are funded by a combination of private and public resources. The additional \$3,000 requested for the overflow shelter is available from CSBG funds.

The funds provided for operation of the winter emergency overflow shelter are CSBG and their provision obligate no general fund monies.

The Law Department will review the contract for the winter emergency overflow shelter between the City and the Inter-Faith Ministries.

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Motion--
--carried

Mayans moved that the total of \$10,500 in CSBG funding to the Inter-Faith Ministries for operation of the emergency winter overflow shelter, be authorized. Motion carried 7 to 0.

HEARTSPRING

DEMOLITION OF HEARTSPRING FACILITY.

Agenda Report No. 03-1284

The City of Wichita acquired the former Heartspring campus at 21st Street North and Jardine in December of 1995. The southern portion of the site has been redeveloped with a new Cessna Training complex. In addition, three residential buildings were redeveloped as apartments for Cessna trainees.

The remainder of the complex includes a 64,500 square foot administration building and twenty-three (23) 2,889 square foot single-story buildings. Thirteen of the buildings are built out as residential units with a variety of floor plans and unit sizes. The remaining ten buildings were used as classrooms or offices. All of these buildings are currently vacant, do not meet current codes, and have deteriorated making repairs too costly.

Recently, the Administration Building experienced a fire that significantly damaged the structural integrity of this facility, with significant. The complex also continues to experience problems with vandalism. Although a security firm has been retained to regularly patrol the complex, numerous events of vandalism and break-ins to the vacant facilities continue to occur. These problems, along with aging facilities, warrant action to remove. In addition, to bring these facilities up to current codes and ADA requirements would not be considered cost effective.

The vacant Administration building, residential units and the facilities used as classrooms and offices, require the City to expend funds for security services and to provide minimal maintenance and upkeep to address vandalism and deteriorated conditions. A viable and beneficial reuse has not yet been approved for any of the vacant facilities. Because of the problems associated with maintaining this property, it is proposed that the buildings be demolished to reduce expenditures associated with the ownership of this complex and the site be readied for redevelopment.

City staff has reviewed the properties and estimate that the cost to demolish the dilapidated buildings and clear the land will be approximately \$350,000 (based on previous estimates). Formal bids will be taken to affirm this cost and to seek a viable contractor.

Demolition of the Heartspring complex is estimated to cost approximately \$350,000. Funding for the demolition is available from the insurance settlement (approximately \$160,000) - from the recent fire in the administration building) and from lease payments from the Cessna facility on 21st Street (fund balance of \$218,000).

The property was acquired with HUD Special Purpose Funds and the City has the legal authority to demolish this property. Budget transfers greater than \$10,000 require City Council approval.

Motion--
-- carried

Mayans moved that the demolition of the vacant Heartspring properties be approved; the budget transfers for costs associated with demolition be approved; and staff be authorized to solicit competitive bids for the demolition. Motion carried 7 to 0.

WORKFORCE INV.

TERMINATION OF WORKFORCE INVESTMENT ACT YOUTH SERVICES PROPOSALS.

Agenda Report No. 03-1285

In September 2002, in its role as grant recipient for the federal Workforce Investment Act (WIA) funds, the City of Wichita released a Request for Proposal developed by the Workforce Alliance of South Central Kansas, soliciting proposals for case management services and other Youth Program services. The Alliance approved all four proposals received and the City entered contracts with:

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Wichita Children's Home for \$122,594
Goodwill Industries for \$149,935
United Methodist Youthville for \$150,000
Job Readiness Training for \$149,500

The contracts commenced on December 1, 2002 and were scheduled to terminate on June 30, 2004.

During the last few months, the Regional Economic Area Partnership, in its role as the WIA local elected officials board, decided to exercise its authority and assume WIA grant recipient responsibilities, and to delegate sub-recipient responsibilities to the Alliance. As of December 31, 2003, the City will no longer be responsible for administration of the above contracts.

To divest itself of the responsibility for the contracts, the City will use the contract termination clause and notify the providers that the contracts are terminated effective 12-31-03. The Workforce Alliance staff will negotiate new contracts with the providers, to begin 1-1-04.

The City used federal WIA funds to pay the costs of these four contracts and no general fund monies were obligated.

Termination of the contracts has been approved by the Law Department.

Motion--carried Mayans moved that the termination of contracts be approved. Motion carried 7 to 0.

SANITARY SEWERS RECONSTRUCTION AND/OR REHABILITATION OF SANITARY SEWERS.

Agenda Report No. 03-1286

The Sewer Maintenance Division of the Water & Sewer Department maintains the sanitary sewer system. Preventive maintenance includes the use of closed circuit cameras in evaluating the old sewer lines. The sewer lines that are in the poorest condition are scheduled for reconstruction or rehabilitation. The reconstruction and rehabilitation of sanitary sewers helps to eliminate stoppages, backups, failures, and reduces inflow and infiltration (I&I) into the system. Maintenance costs are reduced, as well as considerable inconvenience to customers.

Capital Improvement Program, Reconstruction and/or Rehabilitation of Sanitary Sewers (CIP #S-4) has a budget of \$3,950,000 for 2004 and will be funded from future revenue bonds and/or Sewer Utility cash reserves.

Motion--
--carried Mayans moved that the project expenditures for 2004 be approved and the Resolution be adopted. Motion carried 7 to 0.

RESOLUTION NO. 03-629

A Resolution of the City of Wichita, Kansas, declaring it necessary to construct, reconstruct, alter, repair, improve, extend and enlarge the water and sewer utility owned and operated by the City, and to issue Revenue Bonds in a total principal amount which shall not exceed \$3,950,000 exclusive of the cost of interest on borrowed money, for the purpose of paying certain costs thereof, and providing for the giving of notice of such intention in the manner required by law, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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TAPPING MACHINE REPLACEMENT OF TAPPING MACHINE.

Agenda Report No. 03-1287

The Water & Sewer Water Distribution Division makes taps with CL 12 Mueller Tapping Machines for commercial and industrial water services 4-inches and larger, including performing taps for contractors. These machines are the only tapping machines in the Wichita area capable of making the larger taps, and contractors are dependent on the Water Distribution Division for this.

The Water Distribution Division has two CL 12 Mueller Tapping Machines, the oldest being 26-years old. One of the machines is broken and scheduled in the budget to be replaced in 2004. The broken machine has been rebuilt three times since it was new and cannot be rebuilt again. Recently, the other machine has not functioned properly and will cost \$10,000 and take two months to repair. If both machines are out of service, larger taps cannot be made, which would halt construction and repairs. Therefore, Staff is requesting the purchase of a new CL 12 Mueller Tapping Machine, which will fit the machine attachments owned by the City.

The tapping machine will cost \$35,581.66. There are sufficient funds available for the purchase of this equipment in the budget.

Purchasing Ordinance No. 35-856, Section 2(b) provides for the purchase of equipment and supplies from sole sources of supply without advertising for bids.

Motion--
--carried

Mayans moved that the purchase from the sole source vendor be approved and the Purchasing Manager to proceed be authorized. Motion carried 7 to 0.

PROPERTY ACQ. PAYMENT OF CONDEMNATION AWARD, CASE NO. 03 CV 3656, JABARA AIRPORT RUNWAY PROTECTION. (DISTRICT II)

Agenda Report No. 03-1288

The City has identified the need to acquire a tract of land located at 4700 N. Webb Road in connection with a project to preserve the runway approach protection zone for Jabara Airport. This property is owned by Robert R. Lee and Gina R. Lee. Earlier this year the City initiated eminent domain proceedings to acquire this property. On November 13, 2003, the court appointed appraisers filed their award. They determined the compensation to be paid for the acquisition of the property to be \$1,250,000.00. The court awarded the three appraisers fees in the amount of \$6,000.00. Court costs are \$111.

In order for the City to acquire this property, it must pay the award, together with fees and costs, to the Clerk of the District Court on or before December 13, 2003.

The costs of acquiring these properties will be paid from project funds.

The City has until December 13, 2003, to decide whether or not to acquire the property. If payment is not made to the Clerk by that date, the eminent domain is deemed abandoned.

Motion--
--carried

Mayans moved that payment to the Clerk of the District Court in the amount of \$1,256,011.00 for acquisition of property interests condemned in Case No. 03 CV 3656, be authorized. Motion carried 7 to 0.

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BALLARD AVIATION BALLARD AVIATION, INC. GROUND LEASE ESTOPPEL AND CONSENT TO MORTGAGE.

Agenda Report No. 03-1289

In December 1998 the City issued \$1,200,000 in Airport Facility Revenue Bonds for the purpose of providing funds for Ballard to acquire land, construct certain improvements on such land and acquire certain equipment for the operation of its business in the facilities constructed on such land. As a part of the structuring of that bond issue, the Airport Authority took title to such land and leased the same to Ballard through November 30, 2023.

Ballard intends to borrow funds from Commerce Bank sufficient to pay off the 1998 Airport Facility Revenue Bonds. Ballard will, however, continue to lease such land under the ground lease provisions of the Revenue Bond Lease. As security for the loan, Ballard is required to pledge its leasehold interest in such land to Commerce and Commerce has required that in connection with that pledge the Airport Authority execute an estoppel agreement stating that Ballard is not in default under its leasehold with the Airport Authority and consenting to the proposed mortgage between Commerce and Ballard in connection with Commerce's loan to Ballard.

The provisions of the estoppel agreement are a correct statement of the present status of the lease between the Airport Authority and Ballard. The Airport Authority's consent to the proposed mortgage between Commerce Bank and Ballard does not interfere with the Airport Authority's obligations under the December 1998 Airport Facility Revenue Bond issue.

The approval and execution of these documents has no adverse financial impact on the Wichita Airport Authority.

The Law Department has approved the Ground Lease Estoppel and Consent to Mortgage as to form.

Motion--

Mayans moved that the Ground Lease Estoppel and Consent to Mortgage be approved and the Mayor be authorized to execute the amendment on behalf of the Wichita Airport Authority. Motion carried 7 to 0.

--carried

STREET MAINT.

2003 CONTRACTED STREET MAINTENANCE PROGRAM BUDGET ADJUSTMENT.

Agenda Report No. 03-1290

Each year, funding is allocated in the City's budget for contracted repairs and resurfacing of City streets. The Contracted Street Maintenance Programs provide maintenance work including concrete repairs, curb and gutter repairs, bridge repairs, crack repairs, and asphalt surface treatments of city streets. The Street Maintenance budget is the primary funding source for this program. In 2003 a total of \$5,081,310 was allocated from the Street Maintenance Budget and the Capital Investment Maintenance Program. Approximately nine percent (\$454,490) of this total was set aside for inspector's salaries, benefits, and engineering overhead.

The current status of the Contracted Maintenance budgets shows a surplus in overhead and personal services funds. A budget adjustment is required to move these funds into the contractual portion of the budget so they can be utilized for additional curb and gutter and concrete repairs.

Projections show approximately \$69,000 is available for transfer to contractals.

Budget adjustments over \$25,000 must be approved by City Council.

Motion--

Mayans moved that the budget adjustment be approved and staff to make the necessary transfers be authorized. Motion carried 7 to 0.

--carried

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WORK PROGRAM

UNIFIED PLANNING WORK PROGRAM FOR FISCAL YEAR 2004.

Agenda Report No. 03-1291

The Unified Planning Work Program (UPWP) is the Metropolitan Planning Organization's document describing the work elements planned for year 2004. The United States Department of Transportation (DOT) stipulates that a UPWP must include the annual application for federal transportation planning funds. After approval by various officials and agencies, the UPWP will be used as the authorization document for making applications for funds to support our local transportation planning programs.

Federal funds being requested will provide funding for eight full-time equivalent staff positions plus miscellaneous expenses and consultant fees, which will allow the MAPD to continue to evaluate the feasibility of short and long-range transportation options and to develop strategies for implementing elements of the Transportation Plan. This will allow Sedgwick County to continue receiving federal and state construction funds for implementing projects.

The Technical Advisory Committee reviewed and approved the FY 2004 UPWP on November 17, 2003. The Planning Commission as the Metropolitan Planning Organization (MPO) for transportation planning approved the UPWP on November 20, 2003 and the Board of Sedgwick County Commissioners will consider approval of the document and resolution on December 3, 2003.

The availability of local funds for other planning projects is determined in the City and County budget process. A resolution has been prepared to authorize the Director of the MAPD to make applications for federal funds up to a total of \$1,411,010. Additional federal planning funds of \$971,000 for a South Area Transportation Study, is also included in this year's work program.

The activities described in the UPWP are funded from two sources; the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), and is administered through the Kansas Department of Transportation (KDOT). The Planning Department will make available non-federal matching funds in support of the UPWP. The amount of local match (provided as in-kind staff services: \$337,753) required to receive federal assistance is shown below:

Federal Funds	Match	Funding Ratio	Total Funds		
Annual USDOT Planning Grant		\$1,351,010	\$337,753(Local in-kind)	80/20	\$1,688,763
Annual USDOT Planning Grant		\$60,000	\$15,000(KDOT cash)	80/20	\$75,000
South Area Study (NCPD grant)		\$971,000	\$194,200(KDOT Soft)	80/20	\$971,000

Motion--

Mayans moved that the FY 2004 UPWP be approved; the Resolution authorizing the Director of Planning to submit applications, negotiate agreements, and execute contracts in support of the UPWP be authorized. This approval also includes the provision of matching funds (in-kind staff salaries) in support of the UPWP not to exceed \$337,753. Motion carried 7 to 0.

--carried

RESOLUTION NO. 03-628

Joint Resolution of the Wichita-Sedgwick County Metropolitan Area Planning Commission, Wichita City Council and Sedgwick County Board of Commissioners, authorizing the request of planning funds, the filing of applications and the execution of contracts and agreements for federal and state grants, and the undertaking of the necessary planning work, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

SPACE STUDY

SPACE UTILIZATION STUDY.

Agenda Report No. 03-1292

The design and layout of the floor space for the Planning Department on the 10th floor has remained virtually unchanged since City Hall was opened in the 1970's. The "public areas" are the primary 10th

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floor locations that are frequently visited by customers of the Planning Department. These customers include citizens, property owners, consultants, agents, and real estate professionals.

The public areas include the reception area that is the entryway for Planning Department customers; "map room" where Current Plans staff meet with citizens and consultants about zoning and platting issues; large conference room that is used by the Metropolitan Area Planning Commission, Historic Preservation Board, and Wichita Board of Zoning Appeals for their public hearings; director's conference room that is used for the weekly development review meetings; and work stations for Administration staff.

The public areas on the 10th floor need to be refreshed and brought up-to-date. The layout of these areas does not efficiently use the floor space, do not present a professional environment, and are not customer friendly. The public areas also need technology improvements, updated furnishings, and more efficient work stations.

To identify how the floor space in the public areas could be improved from a customer service perspective and determine the associated costs, a professional design firm is needed to perform a space utilization study.

The 2003 revised city-county for the Planning Department is \$1,665,400. The source of funds for this budget is \$247,590 in revenue from development application fess and \$717,170 each from the City of Wichita and Sedgwick County.

Even though the local economy has been struggling, 2003 has been a very busy year for Planning staff. There has been a large volume of planning cases this year. The projection is that revenue from development applications will exceed the 2003 budget by \$44,000.

Year-to-date expenditures from Planning's general fund budget have also been reviewed. A conservative estimate shows that expenditures will be much less than the \$1,665,400 budget. By the end of this fiscal year, it is projected there will be a balance of \$66,000.

The 2003 adopted and certified city-county budget was \$1,665,770, and the 2003 revised budget is \$1,427,470. This is a savings of \$238,300.

The financing of a \$45,000 space utilization study is recommended from the following:
\$35,000 - extra revenue from development application fees and revised budget savings.
\$10,000 – under expenditures from the Unified Planning Work Program (federal grant from the U.S. Department of Transportation).

Budget offices from the City of Wichita and Sedgwick County have reviewed the proposal to finance this \$45,000 study, and they concur with the recommended action.

Motion--

--carried

Mayans moved that the \$35,000 budget adjustment for the Planning Department's City-County budget to finance a \$45,000 space utilization study of the public areas on the 10th floor be approved. Motion carried 7 to 0.

2003 CIP

AMENDING RESOLUTIONS: 2003 CAPITAL IMPROVEMENT PROGRAM.

Agenda Report No. 03-1293

Many of the City's Capital Improvement Program projects are bonded under the authority of Kansas Statute 13-1024c. The resolutions associated with such projects are routinely reviewed by the State Attorney General's Office. During a recent review, it was requested that the City's resolution form be revised to provide more clarity about the projects and that existing resolutions be revised to provide additional detail.

Amending resolutions have been prepared to comply with the request of the Attorney General's Office.

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There is no impact on the project budgets with an expectation of the Park Facility Renovation 2003 Capital Improvement Project. General Obligation Bonds funded the original budget totaling \$400,000. However, the budget was increased to include additional funding of \$16,700 through donations for two pavilions. The revised budget is \$416,700.

Motion--carried

Mayans moved that the Resolutions be adopted. Motion carried 7 to 0.

RESOLUTION NO. 03-630

A Resolution amending Resolution No. 03-031, and authorizing the issuance of Bonds by the City of Wichita at large for the labor, material, and equipment for improving diving standards and guard rails replacement at Edgemoor Pool, Harvest pool and Minisa Pool, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-631

A Resolution amending Resolution no. 03-032, and authorizing the issuance of Bonds by the City of Wichita at Large for the improvement of park lighting at the following park sites: Osage, Fairmount and Grove, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-632

A Resolution amending Resolution No. 03-033, and authorizing the issuance of Bonds by the City of Wichita at Large for the labor, material, and equipment for improvements or renovations to Barry Sanders Field, Bayley Street Pathway, Boston Park, Bridgeport Adult Soccer Field, Brownthrush Park, Buffalo Park, Columbine Park, Cowskin Park, Eastview Park, Edgemoor Recreation Center, Evergreen Park, Fairmount Park, Grove Park, Harvest Pool, Henry Park, K96 Lake, Lincoln Park, Linwood Park, Longview Park, Lynette Woodard Recreation Center, McAdam Park, Minisa Pool, Murdock Park, North Woodland Park, Northeast Sports Complex, Orchard Park, Piatt Park, Schweiter Park, Sim Park, South Lakes Sports Complex, Sunset Park, Sycamore Park, Watson Park, West Douglas Park and Westside Athletic Field, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-633

A Resolution amending Resolution No. 03-034, and authorizing the issuance of Bonds by the City of Wichita at Large for the improvement of park paths and sidewalks at Harrison Park, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-634

A Resolution amending Resolution No. 03-035, and authorizing the issuance of Bonds by the City of Wichita at Large for the paving and reconstruction of park entry drives at the following park sites: Aley, Boston, Osage, Linwood, Friendship/Hilltop, West Douglas and Sim Park Drive, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

STORM WATER RATE AMENDED STORM WATER RATE RESOLUTION.

Agenda Report No. 03-1294

In the 1990 Master Storm Water Drainage Plan recommendation was made to set the ERU fee at \$2.25. When the Utility was formed in 1992, the fee was set at \$1.78. Since then there have been several changes to the fee as shown below:

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Year	Recommendation	Fee Set
1993	Reduced	\$1.66
1995	Reduced	\$1.21
1999	Increased	\$1.27
2001	Increased	\$1.32
2002	Increased	\$1.35
2003	Increased	\$1.40

In August 2003, when the City Council considered the 2004 Operating Budget, Council approved an ERU fee increase of \$0.05 (from \$1.40 to \$1.45), which would allow a reduction in the General Fund contribution to the Utility of \$171,500. A Resolution amending Section 2 of Resolution No. R-00-453 pertaining to the ERU Rate for the year 2004 has been prepared.

The City Council, as a part of the 2004 Adopted Budget, has approved this increase of \$0.05.

The increase in the ERU rate is required to replace the General Fund Subsidy to the Utility, which will be eliminated in 2004.

Motion--
--carried

Mayans moved that the Resolution be adopted and the necessary signatures be authorized. Motion carried 7 to 0.

RESOLUTION NO. 03-635

A Resolution amending Section 2 of the Resolution No. R-02-575 pertaining to the ERU Rate for the Storm Water Utility and repealing the original of said Section, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ORDINANCES

SECOND READING ORDINANCES (FIRST READ NOVEMBER 18, 2003)

- a) Industrial Revenue Bonds-Rand Graphics, Inc. (District IVI

ORDINANCE NO 45-934

An Ordinance authorizing the City of Wichita, Kansas to issue its Taxable Industrial Revenue Bonds, Series IX, 2003 (Rand Graphics - Inc.) in the aggregate principal amount of \$2,000,000 for the purpose of purchasing and installing certain machinery and equipment in a commercial printing facility; authorizing execution of Supplemental Trust Indenture No. 1 between the City and First National Bank of Hutchinson Kansas, as Trustee; authorizing the City to lease such further improvements to Rand Graphics, Inc. and authorizing execution of Supplemental Lease No. 1 between the City and Rand Graphics, Inc., approving the form of a Guaranty Agreement between Rand Graphics, Inc. and First National Bank of Hutchinson, as Trustee; and authorizing the execution of a Bond Purchase Agreement for the Bonds between the City, Rand Graphics, Inc. and Emprise Bank, as purchaser of the Bonds, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

- b) Water and sewer rate adjustments for 2004.

ORDINANCE NO 45-935

1) An Ordinance amending Section 17.12.090 of the Code of the City of Wichita. Kansas pertaining to schedule of rates and charges for water service, and repealing the original of said section, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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ORDINANCE NO 45-936

2) An Ordinance amending Section 16.14.040 of the Code of the City of Wichita, Kansas, relating to the schedule of rates for users of the sanitary sewer system, and repealing the original of said Section, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

c) ZON2003-00051 - generally south of Central and east of Doris. (District IV)

ORDINANCE NO 45-937

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. ZON 2003-51

d) A03-24 - near the northeast intersection of Pawnee and Webb Road. (District II)

ORDINANCE NO 45-938

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. A 03-24

PLANNING AGENDA

CUP2003-00044 **CUP2003-00044-DP53-#5-AMEND PARCEL 3A TO REMOVE RESTRICTION ON DRIVE-THRU RESTAURANT, AMEND ARCHITECTURAL REQUIREMENT AND ADD AN ACCESS POINT ON PROPERTY ZONED LIMITED COMMERCIAL. GENERALLY LOCATED AT THE NORTHWEST CORNER OF BOSTON AND WEBB ROAD. (DISTRICT II)**

John Schlegel

Planning Director reviewed the item.

Councilmember Brewer momentarily absent.

Agenda Report No. 03-1295

Wichita City Council heard this case on October 21, 2003, and voted to send the case to District II Advisory Board for review and comment. The case was heard at District II Advisory Board on November 3, 2003. The DAB recommendation was to approve subject to recommended conditions of MAPC (6-3).

Motion--
--carried

Schlapp moved to concur with the findings of the MAPC and approve the CUP amendment, subject to the recommended conditions. Motion carried 6 to 0. (Brewer absent).

ZON2002-00074

ZON2002-00074-ZONE CHANGE FROM LIMITED INDUSTRIAL TO SINGLE-FAMILY RESIDENTIAL AND NEIGHBORHOOD OFFICE, GENERALLY LOCATED SOUTH OF 29TH STREET NORTH AND EAST OF RIDGE ROAD. (DISTRICT V)

John Schlegel

Planning Director reviewed the item.

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Agenda Report No. 03-1296

The City Council denied the rezoning (6-1) on April 15, 2003. The Applicant appealed to District Court, and the matter has been remanded for reconsideration by the City Council.

The applicant originally requested a zone change from "LI" Limited Industrial to "SF-5" Single-Family Residential and "NO" Neighborhood Office on a 5.51 acre unplatted tract located south of 29th Street North and east of Ridge Road. The applicant indicates that the zone change is requested to permit single family residential lots and a home-based office, neither of which is permitted in the "LI" zoning district.

The surrounding area is characterized by a mixture of uses with industrial uses to the west and south and residential uses to the east and north. The properties located south and west of the site are zoned "LI" Limited Industrial and are developed primarily with a cement manufacturing business. Most of the properties located north and east of the site are zoned "SF-5" Single Family Residential are developed with single-family residences. A portion of the lake located east of the site is zoned "LI" Limited Industrial.

A similar zone change request was denied by the City Council in 2001. The applicant appealed the City Council decision in District Court, which upheld the decision of the City Council. The applicant appealed the District Court decision to the Court of Appeals, and the appeal is pending. The applicant subsequently re-filed this zone change request, which is treated as a new zone change request per the re-filing provisions of the zoning code, which allows a new zone change request to be filed one year or more after the original request was denied by City Council.

At the DAB hearing on March 3, 2003, numerous property owners in the vicinity, mostly from the Barefoot Bay neighborhood to the south and east, spoke against the request citing concerns about additional boats accessing the lake and the request being contrary to promises they were made when they purchased their property that the subject property would be one lot and would not be subdivided. The DAB voted 7-0 to recommend denial of the request.

At the MAPC hearing on March 6, 2003, the applicant amended the request to limit the subject property to six residential lots, including one home-based office, and to limit each lot to one boat with a shared boat dock for every two lots, for a total of three boat docks. Numerous property owners from in the vicinity spoke against the request citing the same concerns as presented at the DAB hearing. Numerous letters objecting to the request also were presented at the MAPC hearing. A couple of property owners in the vicinity spoke in favor of the request citing concerns with the types of industrial development that could occur on the property if it were not rezoned. The MAPC voted 10-3 to recommend approval of the request subject to platting the property within one year and subject to the following provisions of a Protective Overlay District:

1. If developed with a residential use, the density of the subject property shall be limited to 6 dwelling units on no more than 6 lots.
2. No more than three boat docks with two boat slips each shall be permitted on the lake from subject property. Each lot on the subject property shall be limited to one watercraft on the lake at any given time for a total of no more than six watercraft from the subject property.
3. Office use on the portion of the subject property zoned "NO" Neighborhood Office shall be limited to a home occupation as permitted by Section IV-E. of the Unified Zoning Code, except that up to four persons not occupying the dwelling unit may be employed in the home occupation.
4. If consented to by the Barefoot Bay Owners' Association, the subject property shall be subject to "Covenants, Conditions, and Restrictions of Barefoot Bay" as recorded on Film 1479, Pages 0204-0234 or as otherwise agreed to from time to time between the owner of the subject property and the Barefoot Bay Owners' Association.

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Protest petitions representing over 75% of the property within 200 feet of the subject property have been received. Numerous protest petitions representing properties more than 200 feet from the subject property also have been received. The amount of property within 200 feet of the subject property owned by the protestors exceeds 20%; therefore, a three-fourths majority vote (6 of 7) of the City Council is required to approve the request.

On reconsideration: The City Council denied the application on April 15, 2003 (6-1). The applicant appealed the matter to District Court under the caption Michael D. Shell v. The City of Wichita (Case No. 03 CV 1835). The applicant and the Barefoot Bay Owners' Association have subsequently come to an agreement on several matters including the objections to this application. They jointly request the rezoning to residential use for 3 lots and the provisions of a protective overlay. A Journal Entry has been approved remanding the District Court case to City Council for reconsideration of rezoning based upon the settlement between applicant and homeowners association. If the City Council grants the rezoning, the applicant's appeal in the 2001 case (pending before the Court of Appeals) will also be dismissed.

Under the proposal, a zone change to SF-5 would be approved subject to platting within one-year and protective overlay provisions:

1. If developed with a residential use, the density of the subject property shall be limited to 3 dwelling units on no more than 3 lots.
2. Each lot shall have no more than one dock per lot with no more than one slip per dock. Thus, there will be no more than three docks on the subject property. The owner(s) of each lot shall follow the procedures for dock approval that are applicable to other owners of lots in the Barefoot Bay Owners' Association, and will be subject to the same standards and conditions that have been applied to such other owners of the lots who have docks (with the exception that no dock can have more than one slip);
3. Maximum of one watercraft per lot on the lake at one time;
4. If consented to by the Barefoot Bay Owners' Association, the lots in the subject property shall share a total of two votes on Association and Lake Rule changes, or as otherwise agreed to from time to time between the owner(s) of the subject property and the Barefoot Bay Owners' Association.
5. If consented to by the Barefoot Bay Owners' Association, the subject property shall be subject to "Covenants, Conditions, and Restrictions of Barefoot Bay" as recorded on Film 1479, Pages 0204-0230, and amendment thereto, or as otherwise agreed to from time to time between the owner(s) of the subject property and the Barefoot Bay Owners' Association.

Motion--

Martz moved to Concur with the settlement provisions requested by the applicant and home owners association upon reconsideration and approve the zone change to SF-5 based on the findings contained in the Staff report, subject to the additional recommended provisions of a Protective Overlay District and subject to the condition of platting within one year, and that the Ordinance be placed on first reading. Motion carried 7 to 0.

--carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over. ZON 2002-00074

ZON2003-00054

ZON2003-00054-AMENDMENT TO PROTECTIVE OVERLAY #17 TO REVISE SIGNAGE RESTRICTIONS, ACCESS CONTROLS, AND ARCHITECTURAL CONSISTENCY REQUIREMENTS. LOCATED AT THE NORTHEAST CORNER OF MAPLE AND 135TH STREET WEST. (DISTRICT V)

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Agenda Report No. 03-1297

The application area is the 3.53 acres located at the northeast corner of Maple and 135th Street West. The applicant is seeking to amend Protective Overlay #17 to: (1) revise signage restrictions; (2) amend access controls and (3) revise architectural consistency requirements. If this request is approved, the applicant will revise boundaries of the existing lots. These amendments are requested in order to facilitate anticipated development of a bank and a drug store on this site.

Signage

Existing PO # 17 Condition: Condition 1A prohibited flashing signage (except for time and temperature and public service messages). Condition 1E limited signage for the entire site to three signs displaying a combined 192 square feet as follows: Lot 1, along Maple, one 96 square foot sign at 20 feet in height; Lot 1, along 135th Street, one 48 square foot sign at 8 feet in height and Lot 2, one 48 square foot sign at 8 in height. Condition 1F restricted building signs for buildings located within 150 feet of the arterial streets to the "NR" Neighborhood Retail District standards (32 square feet in area for a single tenant sign, up to 96 square feet for multi-tenant sites, 30 feet maximum height and limited to one sign per building elevation for each major user provided the total building signage does not exceed 32 square feet, provided the building elevation has street frontage, is adjacent to nonresidential zoning or has 150 feet of area between the façade and residential zoning and lighting is limited to indirect or internal illumination with white light only and without flashing or moving images), and no signs shall face the residential area to the east. All ground signs are to be monument type signs.

Applicant's request: Amend Condition 1A to clarify that electronic message boards are a permitted sign type. Modify Condition 1E to permit 246 square feet of signage as follows: one 75 square foot sign allocated to Parcel 2 along 135th Street; one 75 square foot sign allocated to Parcel 2 along Maple and one 96 square foot sign allocated to Parcel 1 to be located along Maple. Both 75 square foot signs are limited to 18 feet in height and the 96 square foot sign is limited to 10 feet in height. Revise Condition 1F to permit building signs in accordance with the standards of the "LC" Limited Commercial District (no more than three signs for each business on each building elevation having street frontage or a parking area of 150 feet or more; signage area is limited to no more than 20% of each building area or more than 400 square feet in area, nor taller than 30 feet), except the aggregate signage for each elevation shall not exceed 110 square feet in area. No building sign, except for directional signs, shall face the residential area to the east.

Access Controls

Existing PO # 17 Condition: Condition 3 indicates that both Maple and 135th Street West are limited to two points of access each.

Applicant's request: Modify Condition 3 to allow one full movement joint opening along Maple to be shared between Parcels 1 and 2, one full movement opening along Maple for Parcel 2, and one full movement opening along 135th Street to be shared between Parcels 1 and 2 via an access easement.

Architectural Consistency

Existing PO # 17 Condition: All building in Lot 2 shall be uniform in architectural character, color, texture and the same predominate exterior building materials. Building walls and roofs must have predominately earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas. Metal shall not be permitted as a predominate exterior building material for any building on the site.

Applicant's request: Revise Condition 11 to require all buildings within a parcel to share uniform architectural character, color, texture and have the same predominate exterior building material as the other buildings located in such parcel. Building walls and roofs must have predominately earth toned colors, with vivid colors limited to incidental accent. Metal shall not be permitted as a predominate exterior building material for any building within either parcel.

Surrounding properties are developing in the typical land use pattern seen at the intersection of two section line, arterial streets – commercial and office zoning and uses on or near the corners with residential zoning and uses removed from the corner lots. The two "LC" zoned corners located south of Maple have restrictions that limit ground sign size and height. The southeast corner is a 12-acre site that is restricted to 240 square feet of ground/pole signage with sign heights ranging from 8 to 20 feet.

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The southwest corner is a six-acre site that is restricted to 288 square feet of ground/pole signage up to 20 feet in height. The northwest corner is zoned "GO" General Office and is restricted to "GO" ground/pole signage (32 square feet single tenant, up to 96 square feet for multi-tenant sites, 22 feet in height) by the sign code. All ground or pole signs on all three sites are to be monument type signs. On the two commercial sites, building signs are limited to "NR" Neighborhood Retail standards.

DAB V considered the request at the November 3, 2003 meeting and voted 7-0 to approve the request subject to the recommended conditions with the exception that the signs for Lot 2 be limited to 75 square feet in size. MAPC considered the request at the November 6, 2003 meeting and voted 12-0 to approve the request subject to the following conditions:

1. Amend Condition 1A to clarify that electronic message boards are a permitted sign type.
2. Modify Condition 1E to permit 246 square feet of pole/ground signage as follows: one 75 square foot sign allocated to Parcel 2 along 135th Street; one 75 square foot sign allocated to Parcel 2 along Maple and one 96 square foot sign allocated to Parcel 1 to be located along Maple. Both 75 square foot signs are limited to 18 feet in height and the 96 square foot sign is limited to 10 feet in height. All ground/pole signs are to be monument type signs.
3. Revise Condition 1F to permit Lot 1 to have building signs in accordance with the standards of the "LC" Limited Commercial District (no more than three signs for each business on each building elevation having street frontage or a parking area of 150 feet or more; signage area is limited to no more than 20% of each building area or more than 400 square feet in area, nor taller than 30 feet), except the aggregate signage for each elevation shall not exceed 110 square feet in area. No building sign, except for directional signs, shall face the residential area to the east. Building signage on Lot 2 shall be that permitted in the "LC" Limited Commercial district except that the aggregate signage for each elevation is limited to 75 square feet, and no building signs, except directional signs, shall face east.)
4. Modify Condition 3 to allow one full movement joint opening along Maple to be shared between Parcels 1 and 2, one full movement opening along Maple for Parcel 2, and one full movement opening along 135th Street to be shared between Parcels 1 and 2 via an access easement.
5. Revise Condition 11 to require all buildings within a parcel to share uniform architectural character, color, texture and have the same predominate exterior building material as the other buildings located in such parcel. Building walls and roofs must have predominately earth toned colors, with vivid colors limited to incidental accent. Metal shall not be permitted as a predominate exterior building material for any building within either parcel.
6. None of these amendments shall become effective unless, within 90 days following final approval, the applicant elects to dedicate, by separate instrument, the access controls recommended above.

Motion--

--carried

Mayans moved to concur with the findings of the MAPC and approve the amendment to Protective Overlay District #17 and that the Ordinance amending the Protective Overlay be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over. ZON 2003-00054

SUB2002-128

SUB2002-128-PLAT OF THE WATERFRONT SECOND ADDITION, LOCATED ON THE NORTH SIDE OF 13TH STREET NORTH, EAST OF WEBB ROAD. (DISTRICT II)

Agenda Report No. 03-1298

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This is an unplatted site consisting of 3 lots (11.54 acres) and is located within the Wichita's city limits.

Petitions, all 100%, and a Certificate of Petitions for water, paving, sewer, drainage, turn lanes and traffic improvements have been submitted. A Restrictive Covenant was submitted to establish a homeowner's association to provide for the ownership and maintenance of the reserves. Since this site is within the noise impact areas of Jabara Airport, a Restrictive Covenant and Avigational Easement were submitted. Also, an Off-Site Utility Easement has been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Certificate of Petitions, Restrictive Covenants, Avigational Easement and Off-Site Utility Easement will be recorded with the Register of Deeds.

Motion--
--carried

Mayans moved that the documents and plat be approved, the necessary signatures be authorized and the Resolutions adopted. Motion carried 7 to 0.

RESOLUTION NO. 03-637

Resolution of findings of advisability and resolution authorizing improving of Water Distribution System Number 448-89901 (north of 13th, east of Webb), in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 03-638

Resolution of findings of advisability and resolution authorizing improving of Lateral 43, Main 24, War Industries Sewer, (north of 13th, east of Webb) 468-83741, in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

SUB2003-88

SUB2003-88-PLAT OF WICHITA CLINIC ADDITION, LOCATED ON THE SOUTH SIDE OF 21ST STREET NORTH AND ON THE EAST SIDE OF K-96 EXPRESSWAY. (DISTRICT II)

Agenda Report No. 03-1299

This site, consisting of 1 lot (30.5 acres), is a replat of a portion of the Lanzrath Addition in addition to unplatted land. A zone change (ZON 2003-39) from "SF-5" Single-Family Residential District to "GO" General Office District has been approved. This site is located in Wichita's city limits.

Petitions (100%) and a Certificate of Petition have been submitted for sewer, paving and sanitary sewer paving improvements. A Cross-Lot Drainage Agreement (Drainage Covenant) with the adjoining property to the north has also been submitted. A Restrictive Covenant has been submitted to provide for the ownership and maintenance of the reserves.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days. Publication of the Ordinances should be withheld until such time as the Plat is recorded with the Register of Deeds

The Certificate of Petitions, Cross-Lot Drainage Agreement and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--

-- carried

Mayans moved that the documents and plat be approved, the necessary signatures be authorized, the Resolutions be adopted and first reading of the ZON 2003-39 Ordinance be approved, with publication being withheld until such time as the Plat is recorded with the Register of Deeds. Motion carried 7 to 0.

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RESOLUTION NO. 03-639

Resolution of findings of advisability and resolution authorizing construction of Water Distribution System Number 448-89903 (south of 21st, east of K-96 Expressway) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas., presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 03-640

Resolution of findings of advisability and resolution authorizing improving Founders Circle from the north line of Lot 1, Block 1, Wichita Clinic Addition to and including the cul-de-sac; Sidewalk to be constructed on the west side of Founders Circle from the north line of Lot 1, Block 1 to the cul-de-sac, (south of 21st, east of K-96 Expressway) 472-83893, in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2003-39

SUB2003-117

NO-PROTEST AGREEMENT FOR LOT SPLIT NO. SUB2003-117, LOT 28, BLOCK I, WESTFIELD ACRES ADDITION, LOCATED BETWEEN ARCADIA AND BYRON, ON THE NORTH SIDE OF DOUGLAS. DISTRICT V)

Agenda Report No. 03-1300

This No-Protest Agreement is for future water improvements.

The Lot Split will allow for the creation of an additional lot zoned "SF-5" Single-Family Residential District. The No-Protest Agreement assures the City of Wichita that this property will be included in the water line improvements and that the owners have waived their right to protest said improvement.

The No-Protest Agreement will be recorded with the Register of Deeds.

Motion--
--carried

Mayans moved that the No-Protest Agreement be approved and the necessary signatures be authorized. Motion carried 7 to 0.

DED 2003-26

DED 2003-26-DEDICATION OF A UTILITY EASEMENT FOR PROPERTY LOCATED NORTH OF MAPLE, WEST OF 1-235. (DISTRICT IV)

Agenda Report 03-1301

As a requirement of a lot split (Case No. SUB 2003-108), this Dedication of a Utility Easement is being submitted for construction and maintenance of public utilities.

The Dedication has been reviewed and approved by the Planning Commission.

The Dedication will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedication be accepted. Motion carried 7 to 0.

EXECUT SESS.

EXECUTIVE SESSION.

Motion--
--carried

Mayans moved that the City Council recess into Executive Session to consider personnel matters of non-elected personnel and that the council return from Executive Session no earlier than 1:30 P.M. and reconvene in the City Council chambers. Motion carried 7 to 0.

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RECONVENED The Councilmembers reconvened in the Council Chambers at 1:30 P.M. Mayor Mayans announced that no action was necessary as a result of the Executive Session.

Motion--carried Mayans moved to adjourn from executive session. Motion carried 7 to 0.

Motion--carried Mayans moved to adjourn from the regular meeting. Motion carried 7 to 0.

Adjournment The City Council meeting adjourned at 1:33 P.M.

Karen Schofield
City Clerk